



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 12] नई दिल्ली, शुक्रवार, अगस्त 3, 2018/श्रावण 12, 1940 (शक)
No. 12] NEW DELHI, FRIDAY, AUGUST 3, 2018/SHRAVANA 12, 1940 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 3rd August, 2018:—

BILL No. 31 OF 2018

THE CONSTITUTION (AMENDMENT) BILL, 2018

By

SHRI ASADUDDIN OWASI, M.P.

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. This Act may be called Constitution (Amendment) Act, 2018.

Short title.

2. After article 371-J of the Constitution, the following article shall be inserted, namely:—

Insertion of new Article 371-K.

"371-K. (1) The President may, by order made with respect to the State of Bihar, provide for special responsibility of the Governor to establish a separate development council for the Seemanchal region to be known as the Seemanchal Regional Developmental Council (herein after referred to as the Council) to exercise the powers conferred on and to perform the functions assigned to it under this article.

Special provisions with respect to State of Bihar.

(2) The Council shall be a body corporate having perpetual succession and a common seal, with the powers to acquire, hold and dispose of both movable and immovable property, to enter into and execute contracts, to sue or be sued, as well as any other power in connection

with or ancillary to the above and further to the objectives of the Council, including those specifically mentioned in this article.

(3) The office of the Council shall be at such place within the Seemanchal Region as the Council may think fit:

Provided that the Council may establish such number of offices at such places, as it deems necessary to discharge its functions and fulfil its objectives.

(4) The Council shall consist of —

(a) a Chairperson; and

(b) not less than four members and maximum six members excluding the Chairperson, to be appointed by the Governor of Bihar and shall consist of —

(i) not more than two members to be nominated by the President of India;

(ii) at least two independent members having special knowledge of or professional experience in either one or more subjects of rural development, urban planning, irrigation and public works, public health, health management, engineering, conservation and environmental sciences, agricultural sciences, public administration and service delivery, finance, law, education, infrastructure development, and any other subject as may be deemed useful for the Council to perform its functions and fulfil its objectives under this article; and

(iii) at least two members domiciled in the Seemanchal region.

(5) Every member of the Council shall be a whole-time member, and shall hold office for a term of five years from the date on which he enters office, or up to the age of sixty-five years, whichever is earlier.

(6) The Governor shall before appointing any person as a Chairperson or member of the Council, reasonably verify that such person has no financial or other interest in the Council as is likely to affect prejudicially his functions as a Chairperson or member, as the case may be.

(7) The Council shall,—

(a) provide equitable opportunity for any person residing in the Seemanchal region to access education, health services and employment;

(b) provide for the infrastructure necessary for accessing education, health services and employment in the Seemanchal region;

(c) establish standards of education and healthcare services being provided in the Seemanchal region;

(d) ensure that adequate training is provided for employment of any person residing in the Seemanchal region;

(e) provide for the basic care, including nutrition, shelter, clean environment, and proper sanitation, to any person residing in the Seemanchal region;

(f) ensure children below the age of fourteen are not employed in any kind of labour in the Seemanchal region;

(g) ensure protection to, and make special provision for, women, children, economically backward classes, persons with physical and psycho-social disabilities, persons who were displaced due to environmental causes or developmental efforts or from trafficking or any other form of exploitation;

(h) encourage opportunities for investment, entrepreneurship, research and innovation in the Seemanchal region;

(i) provide for equitable access to governance, access to justice and legal aid, and delivery of all public services to the people residing the Seemanchal region;

(j) provide for civic development, potable water and electricity in the Seemanchal region; and

(k) provide for banking and financial services to any person residing in the Seemanchal region.

(8) The Council shall prepare and cause to be published—

(a) a Strategic Development Plan once in every three years which shall set out the development priorities of the Council for the next three years; and

Explanation.—The Strategic Development Plan shall include such research, analysis and proposed measures as are necessary for the execution of the objectives of the Council's.

(b) a Seemanchal Annual Development Report annually, consisting of the measures undertaken or to be undertaken by the Council including the manner of allocation of financial and human resources.

(9) The Council shall have the power to, call for information, inspect, recommend and monitor in relation to executing its objectives as specified in clause 8, including—

(a) conducting research, collecting data and analysing information;

(b) monitoring the implementation of the Strategic Development Plan and the Seemanchal Annual Development Report;

(c) formulating, approving, financing and implementing any plans, programmes, projects and schemes for the Seemanchal region or any part thereof, including providing financial support through grants;

(d) coordinating with any other public authority for inter-regional and intra-regional development;

(e) raising awareness and undertaking advocacy measures for the promotion of practices that are beneficial for the overall wellbeing of the people residing in the Seemanchal region;

(f) consulting experts for executing the objectives of the Council;

(g) making requisite rules, regulations, orders and bylaws as may be deemed necessary by the Council; and

(h) all other acts as may be deemed necessary for executing the objectives of the Council.

(10) For the purpose of this article there shall be constituted a Fund to be called as the Seemanchal Regional Developmental Council Fund to which shall be credited all monies realised, realisable or received respectively by or on behalf of the Council whilst carrying out its objectives and powers as conferred upon it by this article and be utilised by the Council for the payment of all sums, charges and costs necessary for carrying out the objectives and functions of the Council under this article.

(11) The Council shall, within one hundred and twenty days from the date of its constitution, prescribe regulations for carrying out the provisions of this article.

(12) The Council shall make bye-laws for the management of the Seemanchal Regional Developmental Council Fund and for the procedure to be followed in respect of maintenance of accounts of Fund, auditing of Fund, payment of money into the said Fund, withdrawal of moneys therefrom, the custody of moneys therein and any other matter incidental thereto or connected therewith.

(13) The President shall, in consultation with the Council, by order, made in relation to the State of Bihar, provide for—

(a) reservation of a proportion of seats in school, colleges, technical education and vocational training institutions in the State of Bihar for students belonging to Seemanchal region by birth or by domicile;

(b) identification of posts or classes of posts under the State Government and in any body or organisation under the control of the State Government of Bihar and reservation of a proportion of such posts for persons belonging to Seemanchal region by birth or by domicile and for appointment thereto by direct recruitment or by promotion or in any other manner as may, be specified in the order.

(14) The Parliament, shall, by law make such provision as are necessary to give effect to the purposes of this article."

STATEMENT OF OBJECTS AND REASONS

It has been recognised that the region of Seemanchal in Bihar ranks lower on all development indices than other parts of the State of Bihar. As per the Ministry of Statistics and Programme Implementation, not only is the per capita income of people of the State of Bihar the lowest in the nation at rupees three thousand one hundred and ninety nine, the per capita incomes in the major districts in Seemanchal region is far lower than that average as well (Purnea-rupees ten thousand and ninety nine, Kishanganj-rupees nine thousand nine hundred and twenty eight, Araria-rupees eight thousand seven hundred and seventy six, Katihar - rupees eleven thousand two hundred and seventy eight). In terms of the state literacy rate, as determined by the 2011 Census, the districts making up the Seemanchal Area (Purnia - 51.08%, Katihar 52.24%, Araria - 53.53% and Kishanganj - 55.46%) lag significantly behind the literacy rate of the State of Bihar (61.80%), itself behind the national literacy rate (74.04%). This situation of underdevelopment is seen across a number of indicators, as is seen from a baseline survey conducted by the Indian Council for Social Science Research in 2008 that found that all four districts lag behind the national average in eight indicators of socio-economic development and amenities based on 2001 census data, as identified by the Ministry of Minority Affairs, namely, electricity connection, pucca housing, water closet latrines, literacy rate especially female literacy rate, and also additionally measured level of vaccination, and other health facilities. Therefore, special provisions are required to accommodate the needs of the Seemanchal region.

The special provisions are required to establish an institutional framework for the identification of development needs of the said region, and ensuring capacity building and efficient allocation of resources in order to meet such development needs as well as enhance the socio-economic welfare of the persons belonging to the region. The need is also to promote livelihood opportunities for people from the region by providing for local cadres in service and reservation in educational and vocational training institutions by an amendment to the Constitution of India.

It is accordingly proposed to insert a new Article 371K in the Constitution to provide for special provisions for the region of Seemanchal in Bihar, which shall consist of the districts of Araria, Purnea, Kishanganj, Supaul and Katihar. The article in the form of special provision seeks to provide for:—

- (a) establishment of a separate Development Council for the Seemanchal region;
- (b) identification of specific objectives to be undertaken by the Development Council in furtherance of the development of the Seemanchal region, including infrastructure and access to public services;
- (c) sufficient allocation of funds for development over the Seemanchal region, in accordance with the recommendations and suggested measure identified by the Development Council;
- (d) reservation in public employment through the constitution of local cadres for domiciles of the region; and
- (e) reservation in education and vocational training institutions for domiciles of the region.

The Bill seeks to achieve the above objectives.

NEW DELHI;
December 4, 2017.

ASADUDDIN OWAISI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the constitution of Seemanchal Regional Development Council. It also provides for the constitution of the Seemanchal Regional Development Fund. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees twenty crore will be involved as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill empowers the Seemanchal Regional Development Council to make regulations for carrying out the purposes of the Bill. It also empowers the Council to make bye-laws for the management of the Fund, etc. Since the regulations and bye-laws will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 10 OF 2018

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2018.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 84 of the Constitution, for clause (b), the following clause shall be substituted, namely:—

Amendment
of article 84.

"(b) is, in the case of a seat in the Council of States, not less than twenty-five years of age and, in the case of a seat in the House of the People, not less than twenty years of age; and".

3. In article 173 of the Constitution, for clause (b), the following clause shall be substituted, namely:—

Amendment
of article 173.

"(b) is, in the case of a seat in the Legislative Assembly, not less than twenty years of age and, in the case of a seat in the Legislative Council, not less than twenty-two years of age; and".

Insertion of
new article
329A.

4. After article 329 of the Constitution, the following article shall be inserted, namely:—

Right to
contest and
vote.

“329A. (1) Save as otherwise provided in this Constitution, no prerequisite or standard practice or procedure shall be imposed or applied to, discriminatorily or arbitrarily, deny or abridge the right of any citizen to contest or vote in any election held under this Constitution.

(2) Nothing in this article shall be applicable to any reservation of seats or any provision made for special representation of certain classes under this Constitution.

Explanation.— Any requirement for a minimum educational qualification for contesting an election shall be deemed to be prohibited under this article.”.

STATEMENT OF OBJECTS AND REASONS

In 1989, the Sixty-First Amendment to the Constitution of India lowered the voting age from twenty-one years to eighteen years to the House of the People and Legislative Assemblies of the States. The reason was to include more number of adults and make the democratic process more inclusive. Inclusive democracy in the true sense would mean not only widening the voting net but also ensuring a more inclusive electoral contest. A healthy democracy requires that the pool of contestants reflects the diversity of the electorate. It has even been argued in a PIL that was filed in the Supreme Court that articles 84 and 173 violate the Fundamental Right of citizens to choose a profession. The Public Interest Litigation (PIL) was rejected on the ground that lowering the age of contesting required an amendment to the Constitution, and the Parliament, not the Supreme Court, had the authority to do it.

Parliamentary democracy is part of the basic structure of this Constitution. An essential attribute of parliamentary democracy is free and fair elections. The conduct of a free and fair election cannot be conducted when a major demographic group of citizenry is not eligible to contest in elections. India's largest age group is currently prevented from contesting elections, this despite the fact that young individuals constitute 53.7 per cent. of the total population of India according to the 2011 census. In this light, it is essential that young citizens find a stake in parliamentary democracy and are able to articulate their aspirations and claims in the State Legislatures and the Parliament.

Most democracies across the world have reduced the minimum age for contesting elections over the years to either eighteen years or twenty-one years. For example, the minimum age to contest elections in the United Kingdom (reduced from twenty-one in 2006), France, Germany, Australia is eighteen years. In Israel and Indonesia it is twenty-one years. In Iran persons as young as twenty-one can even become the President of the country. Therefore, while young individuals across the world are enriching their democratic traditions, barring our youth from contesting in elections is regressive and exclusionary. Moreover, in order to strengthen the inclusiveness of our electoral democracy it is necessary that a constitutional protection against discriminatory practices in elections be incorporated.

It has been observed that, increasingly, legislatures have made laws to incorporate school education as a prerequisite to contesting local elections. Similarly, it has been noted that under-trial citizens of this country are prevented from exercising their right to vote. This despite the fact, that they are treated as innocent in the eyes of law.

The Bill, therefore, seeks to amend the Constitution with a view to prevent the dilution of the constitutional principles of equal citizenship and universal suffrage and to bar any discriminatory or arbitrary treatment in abridging the right to vote or contest in elections.

The Bill seeks to achieve the above objectives.

NEW DELHI;
January 3, 2018.

ASADUDDIN OWAISI

BILL NO. 9 OF 2018

A Bill to provide for the prevention of human deaths caused by heat stroke during summer and chilling cold during winter seasons by declaring heatwave and coldwave as national calamity and for making provisions for advance preparedness to face these natural calamities immediately on predictions of meteorological department making provision for providing woollens, setting up night shelters, community bonfires etc. during winters and for drinking water, ORS packets, Mango panna, cooling space and shades at conspicuous places, free ration and other needs for the poor homeless workers and daily wage earners during summer and for payment of compensation to the kins of those losing lives in heat or cold wave, as the case may be, by the Central and the State Governments and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent, and
commencement.

1. (1) This Act may be called the Prevention of Deaths due to Heat and Cold Waves Act, 2015.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases the Central Government;

(b) “cold wave” means the period of abnormally low temperature less than the normal temperature that occurs in a place;

(c) “heat wave” means the period of abnormally high temperatures, more than the normal maximum temperature that occurs in a place; and

(d) “prescribed” means prescribed by rules made under this Act.

3. The natural calamities of severe heat wave or cold wave in which people lose their lives are hereby declared respectively to be national calamities and shall be dealt with by the appropriate Government accordingly.

Declaration of heat wave and cold wave as national calamity.

4. (1) The Central and regional Meteorological Centres shall inform the appropriate Government about forecast detailing the likely occurrence of severe heat or cold wave, as the case may be, in their areas, in such manner as may be prescribed.

Meteorological Centres to inform the appropriate Government about prediction of heat or cold wave.

(2) On receipt of the forecast from the Meteorological Centre under sub-section (1), the appropriate Government shall alert its Ministries or departments dealing with agriculture, drinking water, social justice, food and others as it may deem necessary for their necessary arrangements and action plans to meet the challenges likely to be caused by natural calamity and disaster.

5. (1) The appropriate Government shall set up at conspicuous places within its territorial jurisdiction:—

Setting up of night shelters, cooling spaces and shades etc. by appropriate Government.

(a) night shelters for the homeless people with such amenities and facilities for the summer, rainy and winter seasons as may be prescribed.

(b) cooling spaces, shades in the fields for the agricultural workers, near the site of construction for construction workers, near roads and highways for the workers engaged in construction of roads or highways and at such other places as the appropriate Government may deem necessary for the daily wage earners, rickshaw or cart pullers, porters, roadside mechanics and other such workers with facility of drinking water, ORS packets and mango panna in such manner as may be prescribed.

(2) It shall be the duty of the Department of Health of the appropriate Government to announce and implement guidelines on dealing with cold wave or heat wave patients, as the case may be, in such manner as may be prescribed.

(3) Notwithstanding anything contained in any other law for the time being in force, agricultural workers, construction workers and workers who work in the open including porters, cart pullers, rickshaw pullers and other such workers shall be allowed rest between 12 PM and 3 PM during summer season in such manner as may be prescribed.

6. (1) The appropriate Government shall prepare within six months of the commencement of this Act, a long term action plan in order to increase preparedness, information sharing and response coordination between various Ministries and departments of the Government to reduce the health impacts particularly deaths due to extreme heat or cold, as the case may be, on vulnerable population within its territorial jurisdiction.

Long term plan to prevent deaths due to cold and heat waves.

(2) While implementing the long term action plan prepared under sub-section (1) the appropriate Government shall make use of short message service (SMS) e-mail, radio, television, mobile apps and services of village Panchayats to alert the people about extreme heat and cold conditions, as the case may be.

| | |
|---|---|
| Penalty. | 7. Whoever contravenes the provisions of sub-section (3) of section 5 of this Act shall be punished with imprisonment for a term of one month and also with fine which may extend upto two lakh rupees. |
| Compensation to the kin of the victims. | 8. The appropriate Government shall pay to the nearest kin of the victim who die because of heat wave or cold wave, as the case may be a compensation of minimum three lakhs rupees in such manner as may be prescribed. |
| Central Government to provide funds. | 9. The Central Government shall after due appropriation made by Parliament by law in this behalf, provide adequate funds for carrying out the purposes of this Act. |
| Act to have overriding effect. | 10. The provisions of this Act and of any rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any other instrument having effect by virtue of any law other than this Act. |
| Act to supplement other laws. | 11. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the subject matter of this Act. |
| Power to make rules. | 12. (1) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act. (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. |

STATEMENT OF OBJECTS AND REASONS

Every year our nation faces extreme weather conditions in the form of heatwave, rains and coldwave in which many people, particularly the poorer ones lose their lives. For instance in the heatwave of this year 2015 death toll crossed the 2000 mark in the month of May itself. This has become the fifth deadliest ever heatwave in the world and the second deadliest in India according to an International database of disasters. The deadliest heatwave on record in India was in the year 1998 which killed 2541 people. The most lethal heatwave in the globe was the one that crippled Europe in the year 2003 killing 71,310 people. In the list of top ten deadliest disasters heatwaves figure four times—1998, 2002, 2003 and 2015 in India. Unsurprisingly, six of the top ten heatwaves in terms of deaths have occurred in the 21st Century which has also recorded eight of the ten warmest years ever since records of global temperatures have started being kept. The year 2014 was tied as the warmest year on record with the year 1998 whereas the first quarter of 2015 was declared warmest on record. Unfortunately the poor who are undernourished and have no option but to work in the scorching heat and chilling cold to get two square meals are vulnerable to these extreme weather conditions and lose their lives. The death tolls from heatwaves are very difficult to estimate since excess heat is typically not listed as the primary cause of death in cases where the victim has a pre-existing condition such as heart or lung disease. This means that in most of the cases especially in India the actual death toll will be much higher in all the listed events including the spell of heatwave of 2015.

It is only after Prime Minister's appeal to take precautions against the heatwave that killed nearly 2300 people in the month of May, 2015 across the country particularly in the States of Telangana, Andhra Pradesh, Odisha and other parts of the country that the National Disaster Management Authority (NDMA) has started working on it. There is need to declare heatwave and coldwave as national calamity. Immediate as well as long term action plans to increase preparedness, information sharing through various means, increasing communication on prevention methods, access to potable drinking water and cooling space etc. are required to prevent deaths due to heatwave and availability to rain baseraas, woollens, medicines and food for the poorest of the poor may prevent deaths during chilling winters. This is the minimum which has to be done for the poorest of the poor in a welfare State like ours.

Hence this Bill.

NEW DELHI;
January 2, 2018.

RAMESH POKHRIYAL 'NISHANK'

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for various welfare measures such as setting up of night shelters, cooling spaces and shades etc. by the Government. Clause 8 provides for compensation to the kin of the victims. Clause 9 makes it mandatory for the Central Government to provide adequate funds for carrying out the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees ten thousand crore will involve as recurring expenditure per annum.

A non-recurring expenditure to the tune of rupees twenty five thousand crore will also be involved for creating assets throughout the country.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of Bill empowers of the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

BILL NO. 13 OF 2018

A Bill to provide for welfare of women by providing fund and creating employment opportunities and for matters connected therewith or incidental thereto

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Women Welfare Act, 2018.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State, in all other cases the Central Government;

(b) "Fund" means Women Welfare Fund set up under Section 3;

(c) "prescribed" means prescribed by rules made under this Act.

Women
Welfare Fund.

3. (1) The Central Government shall by notification in the Official Gazette set up a Fund to be known as Women Welfare Fund for the purpose of taking welfare measures for Women.

(2) The Fund shall consist of contributions by Central Government and State Governments in such ratio as may be prescribed and donations received from organisations and individuals.

Reservation
of jobs in
Central
Government.

4. The Central Government shall reserve at least thirty-three per cent of jobs for women in all Central Government Services and organisations under its control.

Appropriate
Government
to undertake
Welfare
Measures for
Women.

5. The appropriate Government shall,—

(i) set up such number of women employment centres in every district as may be prescribed to provide assistance to women for employment or self employment;

(ii) reserve land or housing sites for women;

(iii) provide free health care facilities and maternity benefits upto first two children;

(iv) set up women hostels wherein all facilities shall be provided free of cost;

(v) pay sustenance allowance or old age pension to women who are destitute or widows and having no source of regular income;

(vi) provide free training to women for taking up employment or self employment;

(vii) provide scholarships to girl students; and

(viii) reserve at least thirty per cent of seats for women in all educational institutions including higher professional and technical institutions.

Central
Government
to provide
funds for
special Courts.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide funds to the State Governments for setting up of special courts for women in every district.

Central
Government
to ensure loan
to women.

7. The Central Government shall ensure that every commercial bank, including private and foreign banks provide loans to women at the rate of five per cent simple interest for setting up self employment units.

Power to
make rules.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions, aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Women constitute fifty per cent of the population in the country. Though seventy years have passed since independence, yet there has been no improvement in the condition of women. Several efforts taken by the Government have yielded some results, yet much has to be done to improve their lot. The women do not have ample access to schools or employment opportunities. Only a concrete reservation system in educational institutions or Government jobs or special employment or self employment opportunities will help them. Crimes against women are increasing and it takes very long for disposal of cases. Special courts can only help quick disposal of cases.

There is no social security for women in distress. The Government should make some provision for them. Therefore, it is proposed to bring a comprehensive legislation for women welfare.

Hence this Bill.

NEW DELHI;
January 2, 2018.

RAMESH POKHRIYAL 'NISHANK'

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of Women Welfare Fund consisting of contributions by Central Government and other sources. Clause 5 provides for setting up of employment centres, reservation of land or housing sites and providing hostels, pensions, scholarships, etc. to women by the appropriate Government. Clause 6 of the Bill contains the provision for Central Government to provide funds to State Governments for setting up of special courts in every district. The Bill, therefore by the Central Government, if enacted would involve expenditure from the consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten thousand crore per annum.

A non-recurring expenditure of rupees two thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 6 OF 2018

A Bill to provide for proper planning and co-ordinated development of Self-financing professional educational institutions throughout the country by regulating the admission of students and prescribing fee structure in such Self-financing Institution including prevention of commercialisation of professional education and prohibition of capitation fees and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

WHEREAS it is necessary to provide for proper planning and co-ordinated development of Self-financing Institutions throughout the country by prohibiting collection of capitation fees, preventing commercialisation of professional education, regulating admission procedure and prescribing fees structure and other matters incidental thereto;

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Self-financing Professional Educational Institutions (Control and Regulation) Act, 2018.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

Short title,
extent,
commencement
and
application.

(3) It shall come into force at once.

(4) It shall apply to all Self-financing Institutions in the country.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "advisory body" means a body consisting of parents and teacher's representatives, student representatives, elected Member of Parliament and Member of Legislative Assembly from the area, President of District Panchayat and two representatives of the Management;

(b) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(c) "capitation fee" means any amount by whatever name called whether in cash or in kind, paid or collected or received directly or indirectly by the Management or Governing Body or any member of the Management or Governing Body or staff of any Self-financing Professional Educational Institution, including his/their relative or any person associated in any manner whatsoever in the management of the said institution, in addition to the fees prescribed or determined under section 5 from or in relation to any candidates or student in consideration of his admission or continuance of any course of study or his promotion to a higher class in such college or institution under such management;

(d) "common entrance examination" means the entrance examination conducted either by the Government or any other agency wholly controlled by the Government for admission to the professional educational institution;

(e) "free seat" means any seat in a Self-financing Professional Educational Institution against which the fee collected shall be the same as that prevailing for the corresponding course in Government colleges;

(f) "management" means any trust, Co-operative society, Company registered under the Companies Act, 2013 and such other similar association of persons, under whose control or administration any Self-financing Professional Educational Institution is functioning;

(g) 'minority' means a community belonging to a religious minority as may be notified by the Government;

(h) 'minority institutions' means any private professional educational institute established and administered by minority and being conferred minority status by the National Commission for Minority Educational Institutions;

(i) "parents representative" means, a legal guardian of any student elected by the parent-teachers association of the respective college;

(j) "payment seat" means any seat against which the management is permitted to collect the fees prescribed under section 5(1)(b);

(k) "prescribed" means prescribed by this Act or rule made under the Act; and

(l) "Self-financing Professional Educational Institution" includes any College, University, Deemed University, institution established, administrated or maintained by any trust, Co-operative Society, Company registered under the Companies Act, 2013 and such other similar association of persons, affiliated to or recognized by a University or Government Agency and not receiving any financial assistance from Government and conducting course in any of the disciplines like Engineering and Technology, Medicine, Dentistry, Pharmacy, Ayurveda, Homoeopathy, Siddha, Nursing and Law etc.;

(m) "statutory auditors" means a group of auditors appointed by the Government to audit Self-financing Institution collectively as item of not less than three auditors; and

(n) "student representative" means a student elected by the students of a Self Financing Professional Educational Institution through direct election.

CHAPTER II

ADMISSION AND FEES IN SELF FINANCING PROFESSIONAL EDUCATIONAL INSTITUTION

3. The provisions of this Chapter shall not apply to Self-financing Professional Educational Institution established or administered by the minority communities. Applicability.

4. (1) Notwithstanding anything contained in any law for the time being in force or in any judgment, decree or order of any court or any other authority or in any agreement, the admission of students to a Self Financing Professional Educational Institution shall be made only on the basis of the merit list prepared through a common entrance examination. Procedure for admission.

(2) In every Self-financing Professional Educational Institution seventy five per cent. of the total seats shall be free seats and the remaining twenty five per cent. shall be payment seats.

(3) Every free seat shall be filled up on the basis of the rank in the common entrance examination following the principles of reservation as determined by the Government from time to time, to ensure free ships and scholarship to the candidates hailing from backward areas and weaker section of society.

(4) Every payment seat shall be filled up from the list prepared on the basis of common entrance examination from among those students, who indicate their preference for being allotted such seats:

Provided that the management shall ensure *inter-se* merit among the students opting for a particular institution, and lower rank holders will be eligible for the seat, only if the higher rank holder relinquishes his or her claim through a written communication.

(5) Educational qualification for admission in the Self-financing Professional Educational Institution shall be such as may be notified by the Government, from time to time.

5. (1) Notwithstanding anything contained in any law for the time being in force or in any judgment, decree or order of any court or any other authority or any committee or any agreement,— Fee Structure.

(a) the fees charged by any Self-financing institution for free seats shall be the same as that charged by Government professional institutions for the corresponding course.

(b) the fees charged for payment seats shall be prescribed by the Government on the basis of the recommendation of an expert Committee constituted in this behalf by the Government.

(2) The fee structure determined by the Expert Committee shall be revised every five years.

6. (1) The appropriate Government shall constitute an Expert Committee to determine the fee structure for payment seats in the Self-financing Professional Educational Institutions. Constitution of Expert Committee.

(2) the Expert Committee shall consist of:—

(i) a retired Judge of the Supreme Court or the High Court, who shall be the Chairman of the Committee;

(ii) two experts in the relevant field of professional education;

(iii) two representatives of the appropriate Government;

(iv) three representatives of the management of the Self-financing Professional Educational Institutions; and

(v) two experts in the field of accountancy, cost audit or management.

(3) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and members of the Expert Committee, shall be such, as may be prescribed by the Government.

Auditing. **7.** The statutory auditors shall audit all the Self-financing Professional Educational Institutes at least once in every year and submit their report to the Government.

Advisory Body. **8. (1)** Every Self-financing Professional Educational Institution shall establish an advisory body to advise on framing policies for ensuring quality of education.

(2) The advisory body shall meet at least once in three months and shall have powers to verify any record.

The powers of the Government to take over. **9.** If any management of a Self-financing Professional Educational Institute contravenes any of the provisions of this Act, the Government may temporarily take over the management of the Self Financing Professional Educational Institution and administer the same in larger public interest:

Provided that such take over and administration shall not exceed period of five years.

CHAPTER III

SPECIAL PROVISIONS RELATING TO MINORITY SELF FINANCING PROFESSIONAL EDUCATIONAL INSTITUTION

Applicability. **10.** The provisions of this Chapter shall apply only to Self-financing Professional Educational institution established or administered by the minority communities.

Procedure for Admission. **11. (1)** The admission of students to a Self-financing Professional Educational institution shall be made only on the basis of merit.

(2) In every Self-financing Professional Educational Institution sixty per cent. of the total seats shall be free seats and the remaining forty per cent. shall be payment seats.

(3) Every free seat shall be filled up on the basis of the rank obtained in the Common Entrance Examination following the principles of reservation as determined by the Government from time to time; and also reserve freeships and scholarships to the candidates hailing from backward areas and weaker sections.

(4) Every payment seat shall be filled up from the merit list prepared on the basis of Common Entrance Examination from among those students who indicate their preference for being allotted such seats:

Provided that a fixed percentage of the payment seats may be reserved for the community which establishes or administers the institution as may be prescribed.

Fee Structure in Minority Self Financing Professional Education Institution. **12. (1)** Notwithstanding anything contained in any law for the time being in force or in any judgment, decree or order of any court or any other authority or any committee or any agreement,—

(a) the fees charged by any minority Self-financing Professional Educational Institution for free seats shall be the same as that charged by Government professional Educational Institution for the corresponding course.

(b) the fees charged for payment seats shall be prescribed by the management on the basis of recommendation of an Expert Committee constituted in this behalf by the Government.

(2) The fee structure determined by the Expert Committee shall be revised every five years.

Expert Committee. **13. (1)** The appropriate Government shall constitute an Expert Committee to recommend the fee structure for payment seats in the minority Self-financing Professional Educational Institutions.

(2) The Expert Committee shall consist of—

(i) a retired Judge of the Supreme Court or the High Court who shall be the Chairperson of the Committee;

(ii) two experts in the relevant field of professional education, of which one may be the nominee of the management;

(iii) one representative of the appropriate Government;

(iv) three representatives of the management; and

(v) two experts in the field of Accountancy, Cost Audit or Management.

(3) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and members of the Expert Committee, shall be such, as may be prescribed, by the Government.

CHAPTER IV

OFFENCES AND PENALTIES

14. No capitation fee shall be collected by or on behalf of any Self-financing Professional Educational Institution or by any person who is incharge of the affairs of the institution from any candidate in considering his admission to or continuance in any course of study under the management. Prohibition of capitation fee.

15. No Self-financing Professional Educational Institution shall collect fees for more than the current semester at a time. Collection of Fees.

16. (1) Whoever contravenes the provisions of this Act or the rules made thereunder shall, be punishable with simple imprisonment upto six month or with fine which may extend upto fifty lakh rupees but not less than twenty lakh rupees or with both. Penalties.

(2) A penalty under this sections may be imposed without prejudice to the penalty specified in any other law for the time being in force.

17. No Court shall take cognizance of any offence punishable under this Act except upon a written complaint, made by the person or student from whom the capitation fee is alleged to have been demanded. Cognizance of offence.

18. No suit prosecution or other legal proceedings shall lie against any member of the advisory body or any officer of the Government for anything which is in good faith done or intended to be done under this Act. Protection of action taken in good faith.

19. The Central Government may, in public interest, exempt any Self-financing Professional Educational Institution from the applicability of this Act. Exemption to Self-financing Professional Educational Institutions.

20. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any Self-financing institution from any proceeding which might, apart from this Act, have been instituted against it. Act to be in addition to any other Law.

CHAPTER V

MISCELLANEOUS

21. (1) The appropriate Government may by notification in the Gazette, make rules not inconsistent with the provisions of this Act for the purpose of carrying out the provisions of this Act within three months from the date of commencement of the Act. Power to make rules.

(2) Without prejudice to the generality of the foregoing rule making power, such rules may provide for all or any of the following matters *viz.*:—

- (i) fixation of fee structure;
- (ii) procedure to be followed by the expert committee for determining and fixing fees;
- (iii) the matters to be taken into account while fixing fees;
- (iv) ensuring that no profiteering is carried on and to reserve freeships and scholarships to the candidates hailing from backward areas and weaker sections of the society.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under such rule.

(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

Article 39 of the Constitution of India mandates that the State shall direct its policy towards securing the ownership and control of the material resources of the community are so distributed as best to subserve the common good and that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment. The opening up of the professional education sector and establishment of Self-financing Institutions have resulted in the need for a comprehensive law regulating various aspects of the establishment and conduct of such institutions including right to establish and administer educational institutions of their choice by minorities in the light of principles enunciated and directions issued by the Supreme Court of India in various decisions especially in the areas of admission of students and the fee-structure etc. The Supreme Court had issued the directions invoking its plenary powers under article 142 which are to remain in force till appropriate legislation is enacted by the Parliament. The Bill seeks to achieve the object of regulating the admission of students and fees structure etc. of Self-financing Professional Education Institutions, in the light of the principles enshrined in the Constitution of India especially, article 39 thereof.

Hence this Bill.

NEW DELHI;
January 2, 2018.

RAMESH POKHRIYAL 'NISHANK'

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the constitution of an Expert Committee by the Central and State Governments to determine and fix fee structure in the Self-financing Professional Institutions. Clause 13 provides for constitution of an Expert Committee to determine and fix fee structure in the Self-financing Professional Educational Institutions with reference to the minority-run educational institutions. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. The recurring and non-recurring expenditure on this count cannot be estimated at this stage, but has to be worked out at later stage by the appropriate authority while implementing the provisions of the Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of Bill empowers to the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 34 OF 2018

A Bill to provide for compulsory furnishing of Bills for goods sold and services provided by the suppliers for goods or services and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory Furnishing of Bills for Goods and Services Act, 2018.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires, "prescribed" means prescribed by rules made under this Act.

Definitions.

Compulsory issue of bills for supply of goods or service by suppliers of goods or services provider to purchaser of goods or service.

3. It shall be mandatory for every supplier of goods and services to furnish to the person purchasing goods or availing services a bill indicating separately the cost of goods purchased or charges paid for availing services, various taxes and service charges, if any.

Maintaining of books containing printed books by suppliers of goods or service provider.

4. (1) Every supplier of goods or services shall maintain a book containing bills in printed, electronic or such other format, as may be prescribed.

(2) Every bill furnished to person purchasing goods or availing service shall contain the following information—

- (i) serial no.;
- (ii) name, address and registration number of the supplier of goods or services;
- (iii) name and address of the receiver of goods or services;
- (iv) amount of taxes payable (each tax has to be given separately);
- (v) description and cost of goods sold or services provided; and
- (vi) such other information, as may prescribed.

Constitution of the Authority for registration of suppliers and service providers.

5. (1) There shall be constituted an Authority for registration of supplier of goods or services.

(2) the Authority shall consist of a Chairperson and such number of other members as may be prescribed.

(3) The salary and allowances payable to, and terms and conditions of services of the office of Chairperson and members shall be such as may be prescribed.

(4) The Authority shall have its headquarters at Delhi and an office in each district.

(5) The Authority shall have such number of Officers and staff as it may require for efficient discharge of its functions.

(6) The salary and allowances payable to, and terms and conditions of services of the Officers and staff of the Authority shall be such as may be prescribed.

Act shall not apply to street vendors, rickshaw pullers, roadside mechanics etc.

6. The provisions of this Act shall not apply to street vendors, rickshaw pullers, roadside mechanics and such other persons as the Central Government may, by notification in the Official Gazette, exempt.

Penalty.

7. Any person who violates the provisions of this Act shall be punished with imprisonment for a term which may extend up to six months or with fine which may extend upto rupees one lakh or with both.

Power to make rules.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or

both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

With the enactment of the Goods and Services Tax Act, 2017, almost all transactions of supply of goods or services have come within the ambit of indirect taxation. It has been observed that whenever a product is sold or a service is provided no invoice or bill or receipt is issued for selling the goods or offering the services by the seller or service provider. In practice, no record of selling a product or providing service is maintained by persons who offer such services. Even buyers or persons availing these services for a price do not insist on any invoice, bill, receipt and as a result they may get substandard services and also do not have any mechanism to redress their grievances. Also, in the absence of any record indicating how much earning was made by the supplier of goods or services like the doctors, C.A., chemists, transporters, etc., it becomes difficult to access their income and the extent of tax evaded. The Bill, therefore, seeks to—

(i) make it compulsory to furnish invoice, bill or receipt by seller or service provider for supply of goods or providing of service to the purchaser of goods and services;

(ii) make it compulsory for every supplier of goods or services to maintain record of bills issued;

(iii) constitute an authority for registration of goods and service providers; and

(iv) provide for penalty for violation of the provisions of the Act.

Hence this Bill.

NEW DELHI;
January 24, 2018.

RAMESH POKHRIYAL 'NISHANK'

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the constitution of an authority for registration of suppliers of goods and services. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of rupees one hundred crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of rupees two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 28 OF 2018

A Bill to provide for the constitution of a Sustainable Tourism Interventions Council for establishment of tourism as an organized sector in India, for job-creation, higher foreign exchange reserve and greater cultural intermingling and for matters connected therewith or incidental thereto.

WHEREAS the United Nations World Tourism Organization in its Bali Declaration on Tourism recognizes tourism as a major contributor to world economy and one that may enhance quality of human relationships in September 1996.

AND WHEREAS the Seoul Declaration on Peace and Tourism adopted on the September, 2001 at Seoul recognizes tourism as a means to promote world peace.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the National Tourism (Sustainable Development and Promotion) Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Agency" refers to the Skill Enhancement Certification Agency constituted under section 7;

(b) "Chairperson" refers to the Chairperson of the Sustainable Tourism Interventions Council established under section 3;

(c) "Council" means the Sustainable Tourism Interventions Council established under section 3;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "States" means the State Governments referred to in under article 1 of the Constitution of India; and

(f) "Task Force" means the Marketing Task Force constituted under section 9.

3. (1) The Central Government shall, within sixty days of the commencement of this Act, by notification in the Official Gazette, establish a Council to be known as the Sustainable Tourism Interventions Council for carrying out the purposes of this Act.

Establishment of Sustainable Tourism Interventions Council.

(2) The Council shall consist of,—

(a) the Union Tourism Minister, *ex-officio*, Chairperson;

(b) the Union Ministers of Environment, Forests and Climate Change, Finance, Housing and Urban Affairs and External Affairs —Members;

(c) the State Tourism Ministers— Members;

(d) the Secretary to Union Tourism Ministry—Member;

(e) the Secretaries to State Tourism Ministries—Member;

(f) representatives from Hotel Associations, Travel Agent's Associations, Adventure Sports Operator's Association and other interested groups of tourism industry; and

(g) three other persons from amongst the persons, having outstanding contribution or expertise in the field of development and promotion of tourism industry and having experience of working in the tourism trade for at least ten years.

to be nominated by the Central Government, by notification in the Official Gazette, in such manner as may be prescribed.

(3) The term of the members of the Council referred to under clauses (f) and (g) of sub-section (2) shall be for four years from the date of election or nomination or attainment of the age of seventy years or whichever is earlier and shall not be eligible for the re-election or re-nomination.

(4) The salary and allowances payable to and other terms and conditions of service of members referred to under clauses (f) and (g) of sub-section (2) shall be such as may be prescribed.

(5) The Council shall meet at least once in a year to decide the annual agenda.

4. (1) The Central Government shall depute to the service of the Council such of its employees from the Tourism Department or from any other Department or may employ any person on contractual basis as it considers necessary for carrying out the purposes of this Act.

Employees of the Council.

(2) The salary and allowances payable to and other terms and conditions of service of deputed and contractual employees shall be such as may be prescribed.

Functions of
the Council.

5. The Council shall,—

- (a) make recommendations to the Union and the States on important issues related to tourism including tax-subsidies, new destinations, international promotions and employment;
- (b) create annual State-specific Action Plans on issues mentioned under clause (a);
- (c) create and discover new tourist destinations;
- (d) except for adventure tourism destinations, connect through adequate road connectivity and regulated transport infrastructure;
- (e) provide health centres intermittently to destinations of trekking and hiking;
- (f) recognize all buildings older than one hundred and fifty years as vintage building;
- (g) constitute a Heritage Fund both at the Central and State level, through appropriate financial tools, which shall be used to acquire vintage buildings as recognized under clause (i) under their jurisdictions;
- (h) undertake ease-of-tourism initiative using the Tourism Satellite Account constituted under section 6 to release biennial rankings on the ability of the State Government to attract tourists, domestic and foreign;
- (i) take cognizance of the state security in each State for tourists based on how friendly the State police is to the tourists;
- (j) establish a Standard Operating Procedure for each State for sensitizing the people of the States for friendly reception of all kinds of tourists and for helping them in understanding the culture of the State;
- (k) strive to reduce the consumption of energy-intensive and water-intensive tourism industry through certification to promote sustainable tourism infrastructure; and
- (l) constitute a sub-council consisting of representatives of Central Government and State Governments to grant Energy Conservation Certificate to the energy-intensive and water-intensive tourism industry.

Constitution
of Tourism
Satellite
Accounts.

6. (1) The Central Government shall, by notification in the Official Gazette, constitute a Tourism Satellite Account for the economic measurement of tourism in the country.

(2) The Tourism Satellite Account shall include,—

- (a) harmonization and reconciliation of tourism statistics from an economic perspective;
- (b) tourism economic data that is comparable with other economic statistics; and
- (c) inbound domestic tourism and outbound tourism expenditure including internal tourism expenditure, production accounts of tourism industries, the Gross Value Added (GVA) and Gross Domestic Product (GDP) attributable to tourism, employment, investment, Government consumption and non-monetary indicators.

Constitution
of Skill
Enhancement
Certification
Agency.

7. (1) The Central Government shall, by notification in the Official Gazette, constitute an Agency to be known as the Skill Enhancement Certification Agency for carrying out the purposes of this Act.

(2) The Agency shall,—

(a) establish and recognize skill development institutions which provide courses in any such activity which aid in tourism; and

(b) provide to every student who successfully complete courses in tourism guides, languages, cookery and driving a certificate for acquiring respective skills.

8. (1) The Central Government shall, in consultation with the Council, choose five States every two years, from the five regions of the country, namely, North, South, West, East and North-East, to form a group to be known as the Target Five States for development and promotion of tourism in those States.

Target Five States.

(2) The Central Government shall, in consultation with the Council, for the purposes of development and promotion of tourism in Target Five States chosen under sub-section (1),—

(a) allot a fixed percentage of budget of Target Five States for tourism in those States;

(b) grant tax-holiday for a stipulated period of time to any project by a private party that may increase the number of tourists and also the stay of tourists in the Target Five States;

(c) develop tourism circuits viz, spiritual, adventure and natural;

(d) develop nodes in tourism circuits keeping in view the global standards in cleanliness, water and energy efficiency, crowd management, security, policing and hospitality;

(e) renovate historical sites to maintain and preserve the monuments from the vagaries of nature and man-made elements like pollution;

(f) establish at least one museum to be developed and maintained by a corporate entity or any other organization;

(g) recognize annual festivals in the Target Five States, ranging from tribal to more modern festivals; and

(h) train the festival conductors with event management training, or give them the necessary professional assistance.

9. (1) The Central Government shall, in consultation with the Council, constitute a Task Force to be known as the Marketing Task Force for marketing and campaigning of the tourism in the country.

Constitution of Marketing Task Force.

(2) The Task Force shall consist of,—

(a) a Chief Public Relations Officer having compulsory training in marketing, even if recruited from All India Civil Services; and

(b) representatives from the marketing and personal relations industry,

to be appointed by the Central Government in such manner as may be prescribed.

(3) The Task Force shall,—

(a) strive to develop positive image of tourism in India and also in other Countries;

(b) make tailor-made ad campaigns and other marketing modes to promote tourism in the Target Five States;

(c) report negative experiences of tourists in a particular place as collated through analytics to the local administration for their immediate redressal; and

(d) showcase the trouble-shooting and hassle-free tourism experiences in the place.

Formulation of schemes and policies to promote and develop environment friendly tourism.

10. (1) The Council shall, by notification in the Official Gazette, formulate adequate schemes and policies to incentivise the organizations and buildings involved in tourism industry to promote and develop environment friendly tourism in the country.

(2) Every organizations and buildings involved in tourism industry in order to avail the incentives of the schemes and policies formulated under sub-section (1) shall ensure that—

(a) purchasing policy favours environmentally responsible and eco-friendly products for building materials, capital goods, food and consumables;

(b) purchase of disposable and consumer goods is measured, and the organisation actively seeks ways to reduce their use;

(c) energy consumption be measured, sources indicated, and measures to decrease overall consumption be adopted, while encouraging the use of renewable energy;

(d) water consumption be measured, sources indicated and measures to decrease overall consumption be adopted;

(e) step-by-step plan to identify, and then quantify, sources of greenhouse gas emissions under its control, and activate measures to offset climate change in a time-bound manner is effectively implemented;

(f) waste water including grey water, is treated effectively and reused, wherever possible;

(g) solid waste management plan is implemented, with quantitative goals to minimise waste that is non-biodegradable, not reused or recycled;

(h) use of harmful substances including pesticides, harmful chemicals, swimming pool disinfectants and cleaning material is minimized, substituted, when available, by innocuous products, and all chemical use is properly managed;

(i) pollution from noise, light, runoff, erosion, ozone-depleting compounds and air and soil contaminants is reduced;

(j) biodiversity, ecosystems and landscapes are conserved;

(k) refrain from participation in, accept, allow or encourage the use of, or display or trade in endangered species of flora and fauna, except trophy displays, as permitted under the law;

(l) no wildlife is held in captivity;

(m) use of endemic native species for landscaping and restoration and takes measures to avoid the introduction of invasive alien species;

(n) biodiversity conservation, including supporting natural protected areas and areas of high biodiversity value is supported;

(o) interactions with wildlife not produce adverse effects on the viability of populations in the wild; and

(p) any disturbance of natural ecosystems is minimised, and, if it occurs inadvertently, steps are taken for immediate rehabilitation and/or compensatory contribution for conservation of management.

Audit and Account.

11. (1) The Council shall maintain proper accounts and other relevant records and prepare annual statement of accounts in such form as may be prescribed.

(2) The accounts and Funds of the Council shall be audited by the Comptroller and Auditor General of India and any expenditure incurred in connection with such audit shall be payable by the Council.

(3) The accounts of the Council as certified by the Comptroller and Auditor General of India together with the audit report thereon shall be forwarded annually to the Central Government which shall cause it to be laid before each House of Parliament.

12. No suit, prosecution or other legal proceedings shall lie against any person or authority for anything which has been done or intended to be done in good faith under this Act or the rules made thereunder.

Protection of
action taken
in good faith.

13. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Power to
remove
difficulty.

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

14. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Today tourism is an important economic sector for any country. Tourism is also a source of revenue and economic growth. For an ancient civilization like India, tourism shall play a pivotal role in driving not just our messages and ancient wisdom, but shall also attract the world's tourists to India.

Tourism is also increasingly being recognised for its contribution to national development strategies and in the global development. Tourism has been identified by the United Nations (UN) as one of the ten sectors to drive the change towards a Green Economy and was included in the Rio+20 Outcome Document as one of the sectors capable of making "a significant contribution to the three dimensions of sustainable development, has close linkages to other sectors, and can create decent jobs and generate trade opportunities".

India's share in international tourist arrivals is around 11.8 per cent. Moreover our foreign exchange due to tourism is also closer to \$22 billion. For a country like India with rich history, heritage and culture, the potential from tourism is much higher.

Therefore, the need is to channelize several policy interventions for tourism in India and create an affirmative legislative framework to tap into our tourism potential and make India as the prominent tourism country around the world.

Hence this Bill.

NEW DELHI;
January 3, 2018.

ANURAG SINGH THAKUR

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of a Sustainable Tourism Interventions Council. It also provides for appointment of representatives from Hotel Associations, etc. to the Council. Clause 4 provides for deputation of employees of the Central Government to the Council. It also provides for employment of persons on contractual basis to the Council. Clause 5 provides for constitution of a Heritage Fund to acquire vintage buildings as recognized under this Act. Clause 6 provides for constitution of a Tourism Satellite Account for economic measurement of tourism. Clause 7 provides for constitution of an Skill Enhancement Certification Agency. Clause 8 provides for choosing Target Five States for development and promotion of tourism in those States. Clause 9 provides for constitution of a Marketing Task Force for marketing and campaigning of tourism in the country. Clause 10 provides for formulation of schemes and policies to incentivize the organizations and buildings involved in tourism industry. Clause 11 provides for maintenance of accounts and other relevant records of the Council. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty crore per annum.

A non-recurring expenditure of about rupees twenty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 161 OF 2017

A Bill to establish an effective regime to protect the right to privacy of data all natural person; to set out conditions of surveillance and interception of communications of natural persons; and to constitute a Privacy Commission and for matters connected therewith or incidental thereto.

WHEREAS the right to privacy is an inalienable right of all persons;

AND WHEREAS the need to protect privacy has increased in the digital age with the emergence of big data analytics;

AND WHEREAS the delivery of goods and provision of services requires the collection, storage, processing and disclosure including international transfers of personal data;

AND WHEREAS good governance requires that all interceptions of communications and surveillance must be conducted in a systematic and transparent manner subservient to the rule of law;

AND WHEREAS it is necessary to harmonise any conflicting interests and competing legislations;

NOW, THEREFORE, it is expedient to provide for an enforceable means to protect the privacy of persons;

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Data Privacy And Protection Act, 2017.

Short title,
extent and
commencement.

(2) It extends to the whole of India and, save as otherwise provided in this Act, it shall also apply to any offence or contravention hereunder committed outside India by any person.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) In this Act unless the context otherwise requires, —

Definitions.

(a) “anonymise” means, in relation to personal data, the encryption or removal of all data that may, whether directly or indirectly in conjunction with any other data, be used to identify a natural person or data subject;

(b) “appropriate government” means, in relation to the Central Government or a Union territory Administration, the Central Government; in relation to a State Government, that Government of that State; and, in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly:

(i) by the Central Government or a Union Territory Administration, the Central Government;

(ii) by a State Government, the Government of that State;

(c) “armed force” means any body raised or constituted pursuant to or in connection with, or presently governed by, the Army Act, 1950, the Indian Reserve Forces Act, 1888, the Territorial Army Act, 1948, the Navy Act, 1957, the Air Force Act, 1950, the Reserve and Auxiliary Air Forces Act, 1952, the Coast Guard Act, 1978 or the Assam Rifles Act, 2006;

(d) “authorised officer” means a Gazetted Officer of an All India Service or a Central Civil Service, as the case may be, who is empowered by the Central Government, by notification in the Official Gazette, to intercept a communication of another person or carry out surveillance of another person under the provisions of this Act;

(e) “biometric data” means any data relating to the physical, physiological or behavioural characteristics of a natural person which allow their unique identification including, but not restricted to, facial images, fingerprints, hand prints, foot prints, iris recognition, hand writing, typing dynamics, gait analysis and speech recognition;

(f) “Chief Privacy Commissioner” and “Privacy Commissioner” mean the Chief Privacy Commissioner and Privacy Commissioner, respectively appointed under section 33;

(g) “collect”, with its grammatical variations and cognate expressions, means, in relation to personal data, any action or activity that results in a data controller, police force, armed force, intelligence organisation, public authority, company, person, State or other entity (natural or otherwise) obtaining, or coming into the knowledge or possession of, any personal data of another person;

(h) “communication” means words, signs, gestures, spoken, written or indicated, in any form, manner or language, encrypted or unencrypted, meaningful or otherwise,

and includes visual representations of words, ideas, symbols and images, and the meta data in relation whether transmitted or not transmitted and, if transmitted, irrespective of the medium of transmission;

(i) “competent organisation” means an organisation or public authority listed under Schedule to this Act;

(j) “consent” means an unambiguous indication of a data subject's agreement to the collection, processing, use or dissemination of personal data relating to him or her.

(k) “data controller” means a person who, either solely, or jointly or in combination with other persons, determines the purposes for which and the manner in which any personal data is processed;

(l) “data processor” means a person who processes any personal data on behalf of a data controller;

(m) “data subject” means a natural person who is the subject of personal data;

(n) “deoxyribonucleic acid data” means all data, of whatever type, concerning the characteristics of a natural person that are inherited or acquired during early prenatal development;

(o) “destroy”, with its grammatical variations and cognate expressions, means, in relation to personal data, to cease the existence of, by deletion, erasure or otherwise, any personal data;

(p) “disclose”, with its grammatical variations and cognate expressions, means, in relation to personal data, any action or activity that results in a person coming into the knowledge or possession of any personal data of another person;

(q) “intelligence organisation” means an intelligence organisation under the Intelligence Organisations (Restriction of Rights) Act, 1985 and includes the National Investigation Agency constituted under sub-section (1) of section 3 of the National Investigation Agency Act, 2008 and the Central Bureau of Investigation constituted under the Delhi Special Police Establishment Act, 1946;

(r) “interception” or “intercept” means any activity intended to capture, read, listen to or understand the communication of a person;

(s) “officer-in-charge of a police station” shall have the meaning ascribed to it under clause (o) of section 2 of the Code of Criminal Procedure, 1973;

(t) “person” means and includes a natural person, a company, a firm, an association of persons or a body of individuals, whether incorporated or not;

(u) “personal data” means any data which relates to a natural person if that person can, whether directly or indirectly in conjunction with any other data, be identified from it and includes sensitive personal data:

Provided that the term “personal data” shall not include data which is a matter of public record except details of victims in cases of sexual assault, kidnapping or abduction.

(v) “police force” means—

(i) anybody raised or constituted by the appropriate government for the preservation of law and order and enforcement of laws related to customs, revenue, foreign exchange, excise, income tax and narcotics;

(ii) the bodies raised or constituted pursuant to or in connection with, or presently governed by, the Police Act, 1861, the Central Reserve Police Force Act, 1949, the Border Security Force Act, 1968, the Indo-Tibetan Border Police Force Act, 1992, the Sashastra Seema Bal Act, 2007, the Central Industrial Security

Force Act, 1968, the Railway Protection Force Act, 1957 and the National Security Guard Act, 1986; or

(iii) the bodies raised or constituted pursuant to or in connection with, or presently governed by, the Delhi Special Police Establishment Act, 1946, the Income Tax Act, 1961, the National Investigation Agency Act, 2008 and the Central Vigilance Commission Act, 2003; or

(iv) any police forces raised or constituted by the States, armed or otherwise;

(w) "prescribed" means prescribed by rules made under this Act;

(x) "Privacy Commission" means the Privacy Commission constituted under sub-section (1) of section 33;

(y) "Privacy Officer" means the Privacy Officer designated under sub-section (3) of section 22 and sub-sections (3) and (4) of section 30.

(z) "process", with its grammatical variations and cognate expressions, means, in relation to personal data, any action or operation which is performed upon personal data of another person, whether or not by automated means including, but not restricted to, organisation, structuring, adaptation, modification, retrieval, consultation, use, alignment or destruction;

(za) "public authority" shall have the meaning ascribed to it under clause (h) of section 2 of the Right to Information Act, 2005;

(zb) "receive", with its grammatical variations and cognate expressions, means, in relation to personal data, to come into the knowledge or possession of any personal data of another person;

(zc) "sensitive personal data" means personal data or metadata including—

(i) biometric data;

(ii) deoxyribonucleic acid data;

(iii) sexual preferences and practices;

(iv) medical history and health;

(v) political affiliation;

(vi) ethnicity, religion, race or caste; and

(vii) financial and credit information, including financial history and transactions.

(zd) "store", with its grammatical variations and cognate expressions, means, in relation to personal data, to retain, in any form or manner and for any purpose or reason, any personal data of another person; and

(ze) "surveillance" means any activity, directly or indirectly intended to watch, monitor, record or collect, or to enhance the ability to watch, record or collect, any information, images, signals, data, movement, behaviour or actions, of a person, a group of persons, a place or an object, for the purpose of obtaining information of a person, but does not include collection of personal data under sections 7 and 8 of this Act.

(2) All other expressions used herein shall have the meanings assigned to them under the General Clauses Act, 1897 or the Code of Criminal Procedure, 1973, as the case may be.

Principles
applicable to
protecting
privacy.

3. In exercising the powers conferred by this Act, regard shall be had to the following considerations, namely: —

(a) that personal data with its attributes belongs solely to the person to whom it pertains;

(b) that personal data is required by Governments and commercial service providers and others to enable good governance and the delivery of goods and provision of services without undue delay which may be provided by a meaningful, revocable notice and consent framework;

(c) that the right to privacy is recognised as a fundamental human right by various international treaties to which India is a party;

(d) that intrusions into privacy need always be measured by principles of necessity and proportionality;

(e) that the right to privacy is a fundamental right essential to the maintenance of a democratic society; and

(f) that privacy must be upheld by a competent authority that is independent, impartial, well resourced and free from unwarranted influence.

CHAPTER II

RIGHT TO PRIVACY

Right to
privacy.

4. (1) Without prejudice to the generality of the provisions contained herein, all natural persons shall have a right to privacy which shall be implemented subject to provisions of section 3.

(2) For the purpose of sub-section (1) no person shall collect, store, process, disclose or otherwise handle any personal data of a natural person, intercept any communication of another person, or carry out surveillance of another person except in accordance with the provisions of this Act.

Exemptions.

5. Nothing in this Act shall apply to—

(a) the collection, storage or processing by a person of their own personal data for personal or family use; or

(b) surveillance by a resident of their own residential property.

CHAPTER III

PROTECTION OF PERSONAL DATA

Effective
consent from
a data subject.

6. A data subject may be said to have given effective consent only when it is—

(1) free, in the terms of section 14 of the Indian Contract Act, 1872;

(2) obtained prior to all data collection, except in the cases expressly excluded by section 8;

(3) voluntarily given through an express and affirmative act and is recorded in writing:

Provided that effective consent shall only be said to have been obtained where:

(i) a conspicuous means for its withdrawal is made available to the data subject; and

(ii) the means for its withdrawal may be employed with the same ease as the means by which it was obtained.

(4) obtained after the data subject has been duly informed, in language that a reasonable person may comprehend, of the matters enumerated in sub-section (3) of section 7 or sub-section (3) of section 13 as the case may be, and:

Provided that, in case of any dispute, ambiguities in the terms of the notice and of any privacy policies that apply will be resolved in favour of the data subject;

(5) specific and limited as to the purpose and duration.

Explanation 1.—For the purposes of this section consent shall be deemed to be limited only if it is obtained in respect of the purposes and duration strictly necessary to provide the product or service in relation to which personal data is sought to be collected, processed or disclosed;

Explanation 2.—When the purposes for which personal data was collected are materially altered or expanded subsequent to its collection, consent shall be deemed to be specific only if it is obtained afresh in respect of that alteration or expansion—

(i) after duly informing the data subject of the alteration or expansion in purpose, and

(ii) prior to any use of that data for the expanded purposes.

7. (1) No person, including a data controller and data processor, shall collect any personal data without obtaining the effective consent of the data subject to whom it pertains. Collection of personal data.

(2) Subject to sub-section (1), no person shall collect any personal data that is not necessary for the achievement of a purpose that is connected to a stated function of the person seeking its collection.

(3) A person seeking to collect any personal data shall, prior to its collection and as notified by the Privacy Commission, inform the data subject free of any charges, direct or indirect, to whom it pertains of the following details in respect of their personal data, namely—

(a) when it shall be collected;

(b) its content and nature;

(c) the purpose of its collection;

(d) the purpose and manner in which it shall be used;

(e) the persons to whom it shall be made available;

(f) the duration for which it shall be stored;

(g) the manner in which it may be accessed, checked and modified;

(h) the security practices and other safeguards, if any, to which it shall be subject;

(i) the privacy policies and other policies, if any, that shall protect it;

(j) whether, and the conditions and procedure upon which, it may be disclosed to others;

(k) the time and manner in which it shall be destroyed, or the criteria used to determine that time period;

(l) the procedure for recourse in case of any grievance in relation to it; and

(m) the identity and contact details of the data collector and data processor.

(4) The personal data collected in pursuance of a grant of consent by the data subject to whom it pertains shall, if that consent is subsequently withdrawn for any reason, be destroyed forthwith:

Provided that the person who collected the personal data in respect of which consent is subsequently withdrawn may, only if the personal data is necessary for the delivery of any good or the provision of any service, or the fulfillment of a lawful

contract, not deliver that good or deny that service or fulfil that contract to the data subject who withdrew the grant of consent easily and at any point during the duration of a service.

Collection of personal data without prior consent.

is— **8.** Personal data may be collected without the prior consent of the data subject if it

- (a) necessary for the provision of an emergency medical service to the data subject;
- (b) required for the establishment of the identity of the data subject and the collection is authorised by a law in this regard; and
- (c) necessary to prevent, investigate or prosecute a cognisable offence.

Storage and destruction of personal data.

9. (1) No person, including a data controller and a data processor, shall store any personal data for a period longer than is necessary to achieve the purpose for which it was collected or received, or, if that purpose is achieved or ceases to exist for any reason, for any period following such achievement or cessation.

(2) Save as provided in sub-section (3), any personal data collected or received in relation to the achievement of a purpose shall, if that purpose is achieved or ceases to exist for any reason, be destroyed forthwith.

(3) Notwithstanding anything contained in this section, any personal data may be stored for a period longer than is necessary to achieve the purpose for which it was collected or received, or, if that purpose has been achieved or ceases to exist for any reason, for any period following such achievement or cessation, if —

- (a) the data subject to whom it pertains grants their effective consent to such storage prior to the purpose for which it was collected or received being achieved or ceasing to exist; or
- (b) it is adduced for an evidentiary purpose in a legal proceeding; or
- (c) it is required to be stored for historical, statistical or research purposes under the provisions of an Act of Parliament:

Provided that only such amount of personal data that is necessary to achieve the purpose of storage under this sub-section shall be stored and any personal data that is not required to be stored for such purpose shall be destroyed forthwith:

Provided further that any personal data stored under this sub-section shall, to the extent possible, be anonymised.

Processing of personal data.

10. (1) No person shall process any personal data that is not necessary for the achievement of the purpose for which it was collected or received.

(2) Save as provided in sub-section (3), no personal data shall be processed for any purpose other than the purpose for which it was collected or received.

(3) Notwithstanding anything contained in this section, any personal data may be processed for a purpose other than the purpose for which it was collected or received if the data subject grants their effective consent to such processing and only that amount of personal data that is necessary to achieve the other purpose is processed.

(4) Notwithstanding anything contained in this section, any personal data may be processed for a purpose other than the purpose for which it was collected or received if —

- (a) the data subject grants his/her effective consent to the processing and only that amount of personal data that is necessary to achieve the other purpose is processed;
- (b) it is necessary to perform a contractual duty to the data subject;

(c) it is necessary to prevent a reasonable threat to security of the State or public order; or

(d) it is necessary to prevent, investigate or prosecute a cognisable offence.

11. (1) No person shall collect, receive, store, process or otherwise handle any personal data without implementing measures, including, but not restricted to, technological, physical and administrative measures, adequate to secure its confidentiality, secrecy, integrity and safety, including from theft, loss, damage or destruction.

Security of personal data and duty of confidentiality.

(2) Any person who collects, receives, stores, processes or otherwise handles any personal data shall be subject to a duty of confidentiality and secrecy in respect of it.

(3) The data controllers and data processors shall be subject to a duty of confidentiality and secrecy in respect of personal data in their possession or control.

(4) Without prejudice to the provisions of this section, any person who collects, receives, stores, processes or otherwise handles any personal data shall, if its confidentiality, secrecy, integrity or safety is violated by theft, loss, negligence, damage or destruction, or as a result of any collection, processing or disclosure contrary to the provisions of this Act, or for any other reason whatsoever, as soon as he or she becomes aware of such violation, notify the person to whom it pertains, the Privacy Commission and any other agencies whom the Central Government notifies for this purpose, in such form and manner as may be prescribed, forthwith. Further, any persons, who collects, receives, stores, processes, or otherwise handles any personal data shall report all breaches of provisions of this Chapter III to the Privacy Commission, that are brought to its notice, or are reasonably expected to be known to such persons.

12. (1) Subject to the provisions of this section, personal data that has been collected in conformity with this Act may be transferred by a data controller for to a data processor, whether located in India or otherwise, if the transfer is pursuant to an agreement that explicitly binds the data processor to same or stronger measures in respect of the storage, processing, destruction, disclosure and other handling of the personal data as are contained in this Act.

Transfer of personal data for processing.

(2) No data processor shall process any personal data transferred under this section except to achieve the purpose for which it was collected.

(3) A data controller that transfers personal data under this section shall remain liable to the data subject for the actions of the data processor.

13. (1) Save as provided in this section, no person shall disclose, or otherwise cause any other person to receive, the content or nature of any personal data, including any other details in respect thereof, except to the person to whom it pertains.

Disclosure of personal data.

(2) No person shall disclose any personal data without obtaining the prior effective consent of the data subject and such effective consent may be obtained in any manner, and through any medium, but shall not be obtained as a result of a threat, duress, denial of service or coercion.

(3) For the purpose of sub-section (2), a person seeking to disclose any personal data shall, prior to its disclosure, inform the data subject of the following details in respect of their personal data, namely: —

(a) when it shall be disclosed;

(b) the purpose of its disclosure;

(c) the security practices and other safeguards, if any, to which it shall be subject to;

(d) the privacy policies and other policies, if any, that shall protect it; and

(e) the procedure for recourse in case of any grievance in relation to it.

(4) Notwithstanding anything contained in this section, any person who collects, receives, stores, processes or otherwise handles any personal data may disclose it to a person other than the data subject, whether located in India or otherwise, for the purpose only of processing it to achieve the purpose for which it was collected if such a disclosure is pursuant to an agreement that explicitly binds the person receiving it to same or stronger measures in respect of its storage, processing, destruction, disclosure or other handling as are contained in this Act.

Quality and accuracy of personal data.

14. (1) Any person who collects, receives, stores, processes or otherwise handles any personal data shall, to the extent possible, ensure that it is accurate and, where necessary, is kept up to date.

(2) No person who collects, receives, stores, processes or otherwise handles any personal data shall deny, to the data subject, the opportunity to review and obtain a copy of such data and, where necessary, rectify anything that is inaccurate or not up to date.

(3) Any person to whom any personal data collected, received, stored, processed or otherwise handled under this Act pertains may, if it is not necessary to achieve the purpose of its collection, reception, storage, processing or other handling, demand its destruction, and the person so collecting, receiving, storing, processing or otherwise handling that personal data shall destroy it forthwith.

Special provisions for sensitive personal data.

15. Notwithstanding anything contained in this Act and the provisions of any other law for the time being in force—

(a) no person shall collect sensitive personal data without explicit effective consent from the data subject;

(b) no person shall store sensitive personal data for a period longer than is necessary to achieve the purpose for which it was collected or received, or, if that purpose has been achieved or ceases to exist for any reason, for any period following such achievement or cessation;

(c) no person shall process sensitive personal data for a purpose other than the purpose for which it was collected or received; and

(d) no person shall disclose sensitive personal data to another person, or otherwise cause any other person to come into the knowledge or possession of, the content or nature of any sensitive personal data, including any other details in respect thereof, except the data subject.

Special provisions for intelligence organisations.

16. (1) Notwithstanding anything contained in this Act, the provisions of sections 6, 7, 8, sub-section (4) of section 10 and section 11 shall not apply in respect of an intelligence organisation.

(2) Any intelligence organisation seeking to collect any personal data shall prefer an application, in such form and manner as may be prescribed, to the Chief Privacy Commissioner or any other person authorised by him in this behalf.

(3) The Chief Privacy Commissioner, or any other person authorised by him in this behalf, may, if he is satisfied that the collection of the personal data is necessary to prevent a reasonable threat to security of the state or public order, or prevent, investigate or prosecute a cognisable offence, order the collection of the personal data by recording reasons in writing within a period of fourteen days from the receipt of an application under sub-section (2).

(4) Notwithstanding anything contained in sub-section (2) and subsection (3), if the Central Government is satisfied that a serious threat to the security of the State or public order exists, it may, for reasons to be recorded in writing, which shall include the reason for not getting an order under sub-section (3), order the collection of any personal data.

(5) Before the expiry of a period of seven days from the date of an order for collection of personal data made under sub-section (4), the intelligence organisation that collected the personal data shall notify the Chief Privacy Commissioner of the fact of such collection, the name and address of the person to whom the personal data pertains and shall furnish a copy of the order of the Central Government authorising the collection of the personal data.

(6) No intelligence organisation shall process or store any personal data without implementing measures to secure that the number of persons within that intelligence organisation to whom it is made available, and the extent to which it is copied, is limited to the minimum that is necessary to fulfill the purpose for which it is processed or stored, as the case may be.

(7) Any intelligence organisation that processes or stores personal data shall, before the expiry of a period of seven days from the date of the processing or storage, as the case may be, notify the Chief Privacy Commissioner of the fact of such processing or storage and the name and address of the person to whom the personal data pertains.

(8) Any intelligence organisation that processes or stores personal data shall have to comply with the provisions of section 10 with respect to such data.

CHAPTER IV

INTERCEPTION OF COMMUNICATIONS

17. (1) Notwithstanding anything contained in any other law for the time being in force, but save as provided in this chapter, no person shall intercept, or cause to be intercepted, any communication of another person save in pursuance of an order by the Chief Privacy Commissioner or any other person authorised by him in this behalf.

Bar against interception of communications.

(2) No interception of any communication shall be ordered or carried out that is not necessary to achieve the purpose for which the interception is sought.

18. (1) Any authorised officer seeking to intercept any communication of another person shall prefer an application, in such form and manner as may be prescribed, to the Chief Privacy Commissioner or any other person authorised by him in this behalf.

Prior authorisation by the Chief Privacy Commissioner.

(2) The Chief Privacy Commissioner, or any other person authorised by him in this behalf, may, if he is satisfied that the interception is necessary to prevent a reasonable threat to security of the state or public order, or prevent, investigate or prosecute a cognisable offence, order the interception of communications by recording reasons in writing within a period of fourteen days from the receipt of an application under sub-section (1).

(3) The Chief Privacy Commissioner, or any other person authorised by him in this behalf, shall prior to issuing an order for interception of any communication, satisfy himself that all other lawful means to acquire the information sought to be intercepted have been exhausted and that the proposed interception is reasonable, proportionate and not excessive.

(4) Any interception of any communication ordered, authorised or carried out prior to the commencement of this Act shall, immediately upon the constitution of the Privacy Commission, be reported to the Chief Privacy Commissioner.

19. (1) Notwithstanding anything contained in section 17, if the Home Secretary of the appropriate government is satisfied that an imminent serious threat to the security of the State or public order exists, he may, for reasons to be recorded in writing, order the interception of any communication.

Authorisation by Home Secretary in emergent circumstances.

(2) No order for interception of any communication made under this section shall be valid upon the expiry of a period of seven days from the date of the order.

(3) Before the expiry of a period of seven days from the date of an order for interception made under this section, the person who carried out the interception of communication shall notify the Chief Privacy Commissioner of the fact of such interception, the name and address of the person whose communication is being intercepted, and the duration of the interception

and, furthermore, shall furnish a copy of the order of the Home Secretary authorising the interception.

Duration of interception.

20. (1) An order for interception of any communication shall specify the period of its validity and, upon the expiry of the validity of the order, all interception carried out in relation to that order shall cease forthwith:

Provided that no order for interception of any communication shall be valid upon the expiry of a period of sixty days from the date of such order.

(2) The Chief Privacy Commissioner, or any other person authorised by him in this behalf, may, upon receipt of an application from an authorised officer in such form and manner as may be prescribed, renew any order for interception of any communication if he is satisfied that the conditions upon which the original order was issued continue to exist.

Duty to inform the person concerned.

21. (1) Subject to sub-section (2), before the expiry of a period of sixty days from the conclusion of any interception of communication ordered or carried out under this Act, the authorised officer who carried out the interception of communication shall, in writing in such form and manner as may be prescribed, notify, with reference to the relevant order of the Chief Privacy Commissioner, each person whose communication was intercepted of the fact of such interception and duration thereof.

(2) The Chief Privacy Commissioner may, on an application made by an authorised officer in such form and manner as may be prescribed, if he is satisfied that the notification under sub-section (1) may reasonably present a reasonable threat to the security of the state or public order, or adversely affect the prevention, investigation or prosecution of a cognisable offence, for reasons to be recorded in writing addressed to the authorised officer, order that the person whose communication was intercepted not be notified of the fact of such interception or the duration thereof:

Provided any orders passed preventing disclosure of interception under section (2) shall not operate in infinity and shall record reasons in writing with the period till when the reasonable threat is anticipated to extend, on whose cessation the duty to inform under sub-section (1) shall operate.

Security and duty of confidentiality and secrecy.

22. (1) No person shall intercept any communication of another person without implementing measures, including, but not restricted to, technological, physical and administrative measures, to secure the confidentiality and secrecy of all information obtained as a result of an interception of communication, including from theft, negligence, loss or unauthorised disclosure.

(2) Any person who carries out any interception of any communication, or who obtains any information, including personal data, as a result of an interception of communication, shall be subject to a duty of confidentiality and secrecy in respect of it.

(3) Every competent organisation shall, before the expiry of a period of one hundred days from the date of enactment of this Act, designate as many officers as it deems fit as Privacy Officers who shall be administratively responsible for administration of all interceptions of communications carried out by that competent organisation.

Disclosure of intercepted communications.

23. (1) Save as provided in this section, no person shall disclose to any other person, or otherwise cause any other person to come into the knowledge or possession of, the content or nature of any information, including personal data, obtained as a result of an interception of any communication including the fact that the interception of communication was carried out.

(2) Notwithstanding anything contained in this section, if the disclosure of any information, including personal data, obtained as a result of an interception of any communication is necessary to prevent a reasonable threat to the security of the state or public order, or prevent, investigate or prosecute a cognisable offence, an authorised officer may disclose the information, including personal data, obtained as a result of the

interception of any communication to any authorised officer of any other competent organization:

Provided that no authorised officer shall disclose any information, including personal data, obtained as a result of the interception of any communication that is not necessary to achieve the purpose for which the disclosure is sought.

24. (1) Subject to sub-section (2), no person shall store any information, including personal data, obtained as a result of an interception of any communication for a period longer than one hundred and eighty days from the date on which the last order for interception of the communication to which the obtained information pertains expired.

Storage of intercepted communications.

(2) The Chief Privacy Commissioner may, on an application made in such form and manner as may be prescribed, if he is satisfied that it is necessary to prevent a reasonable threat to the security of the state or public order, or to prevent, investigate or prosecute a cognizable offence, for reasons to be recorded in writing, order that any information, including personal data, obtained as a result of an interception of any communication may be stored for a period longer than one hundred and eighty days from the date on which the last order for interception of the communication to which the obtained information pertains expired.

(3) Any data obtained as a result of interception of any communication shall be stored in a manner that complies with the provisions of section 9 with respect to such data.

CHAPTER V

SURVEILLANCE

25. Notwithstanding anything contained in any other law for the time being in force, but save as provided in this chapter, no person shall order or carry out, or cause or assist the ordering or carrying out of, any surveillance of another person:

Bar against surveillance.

Provided that there shall be an absolute bar to the subsection of persons to indiscriminate monitoring through any methods of mass or bulk surveillance given that it is neither necessary or proportionate to any stated purpose including but not limited to the security of state, interests of public order or to prevent, investigate or prosecute a commission of a cognizable offence.

26. (1) No member of a police force, armed force, intelligence organisation, public authority or the State shall order or carry out, or cause to be ordered or carried out, any surveillance of another person save in pursuance of an order by the Chief Privacy Commissioner or any other person authorised by him in this behalf.

Surveillance by the State.

(2) No surveillance shall be ordered or carried out that is not necessary to achieve the purpose for which the surveillance is sought.

(3) Any authorised officer seeking to carry out any surveillance of another person shall prefer an application, in such form and manner as may be prescribed, to the Chief Privacy Commissioner or any other person authorised by him in this behalf.

(4) The Chief Privacy Commissioner, or any other person authorised by him in this behalf, may, if he is satisfied that the surveillance is necessary to prevent a reasonable threat to the security of the state or public order, or to prevent, investigate or prosecute a cognizable offence, for reasons to be recorded in writing addressed to the authorised officer, order the surveillance.

(5) Prior to issuing an order for surveillance, the Chief Privacy Commissioner, or any other person authorised by him in this behalf, shall satisfy himself that all other lawful means to acquire the information sought to be obtained as a result of the proposed surveillance have been exhausted and that the proposed surveillance is reasonable, proportionate and not excessive.

Surveillance
by private
persons or
entities.

27. (1) Notwithstanding anything contained in any other law for the time being in force, and without prejudice to the provisions of section 25, no person who is not a member of a police force, armed force, intelligence organisation, public authority or the State shall carry out, or cause to be carried out, any surveillance in any public place or in any property or premises that is not in his possession.

(2) Without prejudice to sub-section (1), any person who carries out any surveillance under this section shall be subject to a duty to inform, in such manner as may be prescribed, members of the public of such surveillance.

Duration of
surveillance.

28. (1) An order for surveillance shall specify the period of its validity and, upon the expiry of the validity of the order, all surveillance carried out in relation to that order shall cease forthwith:

Provided that no order for surveillance shall be valid upon the expiry of a period of sixty days from the date of the order.

(2) The Chief Privacy Commissioner, or any other person authorised by him in this behalf, may, upon receipt of an application from an authorised officer in such form and manner as may be prescribed, renew any order for surveillance if he is satisfied that the conditions upon which the original order was issued continue to exist.

Duty to
inform the
person
concerned.

29. (1) Subject to sub-section (2), before the expiry of a period of sixty days from the conclusion of any surveillance ordered or carried out under this Act, the authorised officer who carried out the surveillance shall, in writing in such form and manner as may be prescribed, notify, with reference to the relevant order of the Chief Privacy Commissioner, each person in respect of whom surveillance was carried out of the fact of such surveillance and duration thereof.

(2) The Chief Privacy Commissioner may, on an application made by an authorised officer in such form and manner as may be prescribed, if he is satisfied that the notification under sub-section (1) may present a reasonable threat to the security of the State or public order, or adversely affect the prevention, investigation or prosecution of a cognizable offence, for reasons to be recorded in writing addressed to the authorised officer, order that the person not be notified of the fact of such surveillance or the duration thereof:

Provided that any order passed which prevent disclosure of surveillance under Sub-section (2) shall not operate in infinity and the Chief Privacy Commissioner shall record reasons in writing with the period till when the reasonable threat is anticipated to extend, on whose cessation the duty to inform under sub-section (1) shall operate.

Security and
duty of
confidentiality
and secrecy.

30. (1) No person shall carry out any surveillance of another person without implementing measures, including, but not restricted to, technological, physical and administrative measures, to secure the confidentiality and secrecy of all information obtained as a result of surveillance, including from theft, loss or unauthorised disclosure.

(2) Any person who carries out any surveillance, or who obtains any information, including personal data, as a result of surveillance, shall be subject to a duty of confidentiality and secrecy in respect of it.

(3) Every police force, armed force, intelligence organisation, public authority or State shall, before the expiry of a period of one hundred days from the enactment of this Act, designate as many officers as it deems fit as Privacy Officers who shall be administratively responsible for all surveillance carried out:

Provided that a public authority that does not order or carry out surveillance shall not be required to designate any Privacy Officers under this sub-section.

(4) Every person who is not a member of a police force, armed force, intelligence organisation, public authority or State and who seeks to carry out any surveillance shall, at least seven days before the surveillance is first carried out, designate or appoint as many

persons as it deems fit as Privacy Officers who shall be responsible for all surveillance carried out:

Provided that where surveillance is carried out by a single person, that person shall be deemed to be a Privacy Officer.

31. (1) Save as provided in this section, no person shall disclose to any other person, or otherwise cause any other person to come into the knowledge or possession of, the content or nature of any information, including personal data, obtained as a result of any surveillance including the fact that the surveillance was carried out.

Disclosure of surveillance.

(2) Notwithstanding anything contained in this section, if the disclosure of any information, including personal data, obtained as a result of surveillance is necessary to prevent a reasonable threat to the security of the State or public order, or prevent, investigate or prosecute a cognizable offence, that information, including personal data, obtained as a result of surveillance may be disclosed to a police force, armed force, intelligence organisation, public authority or State only:

Provided that no person shall disclose any information, including personal data, obtained as a result of surveillance that is not necessary to achieve the purpose for which the disclosure is sought.

32. (1) Subject to sub-section (2), no person shall store any information, including personal data, obtained as a result of surveillance for a period longer than one hundred and eighty days from the date on which the surveillance to which the obtained information pertains ceased.

Storage of surveillance data.

(2) The Chief Privacy Commissioner may, on an application made in such form and manner as may be prescribed, if he is satisfied that it is necessary to prevent a reasonable threat to the security of the state or public order, or to prevent, investigate or prosecute a cognizable offence, for reasons to be recorded in writing, order that any information, including personal data, obtained as a result of surveillance may be stored for a period longer than one hundred and eighty days from the date on which the last order for surveillance to which the obtained information pertains expired.

(3) Any data obtained as a result of surveillance shall be stored in a manner that complies with the provisions of section 9 with respect to such data.

CHAPTER VI

THE PRIVACY COMMISSION

33. (1) The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, a body to be called the Privacy Commission consisting of a Chief Privacy Commissioner and not more than six other Privacy Commissioners, to be appointed by the President, by warrant under its hand and seal, to exercise the jurisdiction and powers and discharge the functions and duties conferred or imposed upon them by or under this Act.

Constitution of the Privacy Commission.

(2) The Chief Privacy Commissioner shall be a person who has been a Judge of the Supreme Court of India.

(3) One Privacy Commissioner shall be a person who is or has been a Judge of a High Court.

(4) One Privacy Commissioner shall be a person of ability, integrity and standing who has a special knowledge of, and professional experience of not less than ten years in privacy law and policy.

(5) The other Privacy Commissioners shall be persons with technical expertise and knowledge in the fields of data collection and storage practices, or data protection and ethics, or big data analytics and technologies or information technology while one Privacy

Commissioner should be an ordinary citizen representing the interests of the public who are consumers of data.

(6) The headquarters of the Privacy Commission shall be at New Delhi:

Provided that the Central Government shall, in consultation with the Chief Privacy Commissioners may establish its offices at such other places as it deems fit.

(7) The office of the Privacy Commission shall be a body corporate by the name of aforesaid, autonomous, independent, and free from external interference and shall be the said name, sue or be sued.

(8) The office of the Privacy Commission shall be provided with sufficient operational resources including human, technical, and financial for the effective discharge of its duties and exercise of its powers:

Provided that such powers shall be subject to audit by the Comptroller and Auditor General of India.

(9) The Central Government shall issue a public advertisement inviting applications to fill all vacancies in the Privacy Commission.

(10) For the purpose of filling vacancies under sub-section (8) the Privacy Commissioner shall constitute a selection committee which shall consist of the Chief Justice of India, the Law Minister, the Leader of the Opposition from the House of the People or of the single largest Opposition party being one with the greatest numerical strength in the House of the People, one eminent person representing the private sector and one eminent person representing the civil society to be nominated by the Central Government in such manner as may be prescribed.

(11) Every proceeding of the selection committee shall constitute as a public record.

Explanation.— For the purpose of this section, the term “Civil society” shall mean the aggregate of non-Governmental and non-profit organisations that perform activities for the general upliftment and interests of the people in the field of privacy and is independent of government funding, interference or influence.

Term of
office,
conditions of
service, etc. of
Chief Privacy
Commissioner
and Privacy
Commissioners.

34. (1) The President shall before appointing any person as the Chief Privacy Commissioner or Privacy Commissioner, as the case may be, satisfy himself that the person does not, and shall not, have any such financial or other interest as is likely to affect prejudicially their functions as such Chief Privacy Commissioner or Privacy Commissioner as the case may be.

(2) The Chief Privacy Commissioner and every Privacy Commissioner shall hold office for such period, not exceeding five years, as may be specified by the President in the order of his appointment and be eligible for reappointment:

Provided that no person shall hold office as the Chief Privacy Commissioner or Privacy Commissioner for more than two terms;

Provided further that no person shall hold office as the Chief Privacy Commissioner or Privacy Commissioner after they have attained the age of seventy-five years.

(3) Notwithstanding anything contained in sub-section (2), the Chief Privacy Commissioner or any Privacy Commissioner may—

(a) by writing under his hand and addressed to the President resign his office at any time; or

(b) be removed from office in accordance with the provisions of section 35.

(4) A vacancy caused by the resignation or removal of the Chief Privacy Commissioner or Privacy Commissioner under sub-section (3) shall be filled by fresh appointment.

(5) In the event of the occurrence of a vacancy in the office of the Chief Privacy Commissioner, the President may, by notification, authorise in his behalf, one of the Privacy Commissioners as the Chief Privacy Commissioner till the date on which a new Chief Privacy Commissioner, appointed in accordance with the provisions of this Act, enters upon his office.

(6) When the Chief Privacy Commissioner is unable to discharge his functions owing to absence, illness or any other cause, such one of the Privacy Commissioners as the Chief Privacy Commissioner may authorise in writing in this behalf shall discharge the functions of the Chief Privacy Commissioner, till the date on which the Chief Privacy Commissioner resumes his duties.

(7) The salaries and allowances payable to and the other terms and conditions of service of the Chief Privacy Commissioner and Privacy Commissioners shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chief Privacy Commissioner and any Privacy Commissioner shall be varied to their disadvantage after their appointment.

(8) The Chief Privacy Commissioner and Privacy Commissioners ceasing to hold office as such shall not hold any appointment under the Government of India or under the Government of any State for a period of five years from the date on which they cease to hold such office.

35. (1) The President may remove from office the Chief Privacy Commissioner or any Privacy Commissioner, who —

- (a) is adjudged an insolvent; or
- (b) engages during his term of office in any paid employment outside the duties of his office; or
- (c) is unfit to continue in office by reason of infirmity of mind or body; or
- (d) is of unsound mind and stands so declared by a competent court; or
- (e) is convicted for an offence which in the opinion of the President involves moral turpitude; or
- (f) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Chief Privacy Commissioner or Privacy Commissioner, or cause some conflict of interest including benefits directly or indirectly to relatives or family members, or
- (g) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) Notwithstanding anything contained in sub-section (1), neither the Chief Privacy Commissioner nor any Privacy Commissioner shall be removed from his office on the ground specified in clause (f) or clause (g) of that sub-section unless the Supreme Court on a reference being made to it in this behalf by the President, has on an inquiry held by it in accordance with such procedure as it may specify in this behalf, reported that the Chief Privacy Commissioner or Privacy Commissioner ought, on such grounds, to be removed.

36. (1) The Privacy Commission may, through decisions arrived at by a simple majority of its members present and voting as set out in Section 44(1) of this Act, authorise, review, investigate, make an inquiry, and/or monitor, *suo moto* or on a petition presented to it by any person or by someone acting on his behalf, the implementation and application of this Act and give such directions or pass such orders as are necessary for reasons to be recorded in writing.

Removal of Chief Privacy Commissioner and Privacy Commissioners from office in certain circumstances.

Functions of the Privacy Commission.

(2) Without prejudice to the generality of the foregoing provision, the Privacy Commission shall perform all or any of the following functions, namely—

(a) review the safeguards provided under this Act and under other laws for the time being in force for the protection of personal data and recommend measures for their effective implementation or amendment, as may be necessary from time to time;

(b) authorise, review, investigate, make an inquiry, and/or monitor any measures taken by any competent organisation, police force, armed force, intelligence organisation, public authority, company, person or other entity for the protection of privacy and take such further action as it deems fit;

(c) authorise, review, investigate, make an inquiry, and/or monitor any action, code, certification, policy or procedure of any competent organisation, police force, armed force, intelligence organisation, public authority, company, person or other entity to ensure compliance with this Act and any rules made hereunder;

(d) Investigate and direct data controllers and processors to do or cease to do any act in order to address activity which is in contravention of the provisions of this Act;

(e) formulate through public consultation with experts, other stakeholders, and the general public, norms for the effective protection of privacy by competent organisations, police forces, armed forces, intelligence organisations, public authorities, companies, persons or other entities;

(f) promote awareness and knowledge of personal data protection through any means necessary and to all stakeholders including providing information to any data subject regarding their rights under this Act as requested ;

(g) undertake and promote research in the field of protection of personal data and privacy;

(h) encourage the efforts of non-governmental organisations and institutions working in the field of personal data protection and privacy;

(i) publish periodic reports concerning the incidence of compliance including violations of this Act and data breaches as reported under sub-section (4) of section 11 of this Act, collection, processing, storage, disclosure and other handling of personal data, interception of communications and surveillance;

(j) hear and decide applications for interception and surveillance under Chapters IV and V of this Act;

(k) exercise its powers under section 28, to ensure the speedy and efficient redressal of all complaints whose cause of action arises from this Act; and

(l) such other functions as it may consider necessary for the protection of privacy, personal data, and enforcement of this Act.

(3) The Periodic Reports published by the Privacy Commission, stipulated in sub-section (2) of section 36, shall be tabled by the Central Government before the House of the People during the Parliamentary Session that succeeds the publication of such Periodic Report.

(4) The Chief Privacy Commissioner and the Privacy Commissioners shall appear before an *ad hoc* Committee, constituted by the Speaker of the House of the People and comprising of members from both the governing and the opposition parties from both houses of Parliament to be nominated by presiding officers of the House concerned, on an annual basis, in such manner as may be prescribed which shall,—

(i) review the functioning of the Privacy Commission, and may ask the Chief Privacy Commissioner and the Privacy Commissioners any questions in this regard; and

(ii) present periodic reports to both houses of Parliament in such manner as may be prescribed.

(5) Subject to the provisions of any rules prescribed in this behalf by the Central Government, the Privacy Commission shall have the power to review any decision, judgement, decree or order made by it.

(6) In the exercise of its functions under this Act, the Privacy Commission shall give such directions or pass such orders as are necessary for reasons to be recorded in writing.

37. (1) The Central Government shall appoint a Secretary to the Privacy Commission to exercise and perform, under the control of the Chief Privacy Commissioner such powers and duties as may be prescribed.

Secretary,
officers and
other
employees of
the Privacy
Commission.

(2) The Central Government may provide the Privacy Commission with such other officers and employees as may be necessary for the efficient performance of the functions of the Privacy Commission.

(3) The salaries and allowances payable to and the conditions of service of the Secretary and other officers and employees of the Privacy Commission shall be such as may be prescribed.

38. No act or proceedings of the Privacy Commission shall be questioned on the ground merely of the existence of any vacancy or defect in the constitution of the Privacy Commission or any defect in the appointment of a person acting as the Chief Privacy Commissioner or Privacy Commissioner.

Vacancies, etc.
not to
invalidate
proceedings of
the Privacy
Commission.

39. The Chief Privacy Commissioner and Privacy Commissioners and other employees of the Privacy Commission shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

Chief Privacy
Commissioner,
Privacy
Commissioners
and employees
of the Privacy
Commission
to be public
servants.

40. (1) Subject to the provisions of this Act, the Privacy Commission shall have powers to regulate —

Procedure to
be followed by
the Privacy
Commission.

(a) the procedure and conduct of its business; and

(b) the delegation to one or more Privacy Commissioners of such powers or functions as the Chief Privacy Commissioner may specify.

(2) In particular and without prejudice to the generality of the foregoing provisions, the powers of the Privacy Commission shall include the power to determine the extent to which persons interested or claiming to be interested in the subject-matter of any proceeding before it may be allowed to be present or to be heard, either by themselves or by their representatives or to cross-examine witnesses or otherwise take part in the proceedings:

Provided that any such procedure as may be prescribed or followed shall be guided by the principles of natural justice.

41. (1) The Privacy Commission shall, for the purposes of any inquiry or for any other purpose under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying suits in respect of the following matters, namely—

Power relating
to inquiries.

(a) the summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

- (c) the reception of evidence on affidavit;
- (d) the requisitioning of any public record from any court or office;
- (e) the issuing of any commission for the examination of witnesses; and
- (f) any other matter which may be prescribed.

(2) The Privacy Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Privacy Commission, may be useful for, or relevant to, the subject matter of an inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of sections 176 and 177 of the Indian Penal Code, 1860.

(3) The Privacy Commission or any Gazetted Officer, specially authorised in this behalf by the Privacy Commission may enter any building or place where the Privacy Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.

(4) The Privacy Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code, 1860 is committed in the view or presence of the Privacy Commission, the Privacy Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

Decisions of
the Privacy
Commission.

42. (1) The decisions of the Privacy Commission shall be taken by majority of the member present and voting and be binding and enforceable as a decree of a court as per the provisions of the Code of Civil Procedure, 1908.

(2) In its decisions, the Privacy Commission shall have the power to—

(a) require a competent organisation, police force, armed force, intelligence organisation, public authority, company, person or other entity to take such steps as may be necessary to secure compliance with the provisions of this Act;

(b) require a competent organisation, police force, armed force, intelligence organisation, public authority, company, person or other entity to compensate any person for any loss or detriment suffered; and

(c) impose any of the penalties provided under this Act.

Proceedings
before the
Privacy
Commission
to be judicial
proceedings.

43. The Privacy Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the Privacy Commission shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 and for the purposes of section 196 of the Indian Penal Code, 1860.

Appeal.

44. No order passed under this Act shall be appealable except as provided therein and no civil court shall have jurisdiction in respect of any matter which the Privacy Commission is empowered by, or under, this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act

Jurisdiction.

45. On and from the appointed day, no court or authority shall have, or be entitled to exercise, any jurisdiction, powers or authority, except the Supreme Court and a High Court exercising powers under articles 32, 226 and 227 of the Constitution, in relation to matters over which the Privacy Commission has jurisdiction.

CHAPTER VII

REGULATION BY DATA CONTROLLERS AND DATA PROCESSORS

46. (1) Without prejudice to the provisions of clause (d) of sub-section (2) of section 36, the Privacy Commission may, after a public consultation, formulate codes of conduct for the collection, storage, processing, disclosure or other handling of any personal data.

Co-regulation
by Data
Controllers
and the
Privacy
Commission.

(2) No code of conduct formulated under sub-section (1) shall be binding on a data controller unless—

(a) it has received the written approval of the Chief Privacy Commissioner and at least two Privacy Commissioners; and

(b) it has received the approval, by signature of a director or authorised signatory, of the data controller.

47. (1) The Privacy Commission may encourage data controllers and data processors to formulate professional codes of conduct to establish rules for the collection, storage, processing, disclosure or other handling of any personal data.

Self-regulation
by data
controllers.

(2) No code of conduct formulated under sub-section (1) shall be effective unless it is registered, in such form and manner as may be prescribed, by the Privacy Commission.

(3) The Privacy Commission shall, for reasons to be recorded in writing, not register any code of conduct formulated under sub-section (1) that is not adequate to protect personal data.

48. Any code of conduct formulated under this chapter shall be without prejudice to the jurisdiction, powers and functions of the Privacy Commission.

Co-regulation
and Self-
regulation
without
prejudice to
other
remedies.

CHAPTER VIII

OFFENCES AND PENALTIES

49. (1) Whoever, except in conformity with the provisions of this Act, collects, receives, stores, processes, discloses or otherwise handles any personal data shall be liable to fine which may extend to one crore rupees:

Punishment
for offences
related to
personal data.

Provided that if the person commits the offence either intentionally, or with reckless disregard, he shall be liable for a term of imprisonment which may extend upto three years, and shall also be liable to fine.

(2) Whoever, except in conformity with the provisions of this Act, collects, receives, stores, processes, discloses or otherwise handles any sensitive personal data shall be liable to fine which may extend upto ten crore rupees:

Provided that if the person commits the offence either intentionally, or with reckless disregard, he shall be liable for a term of imprisonment which may extend upto five years and shall also be liable to fine.

50. Whoever, except in conformity with the provisions of this Act, intercepts, or causes the interception of, any communication of another person shall be liable to a fine which may extend upto one crore rupees:

Punishment
for offences
related to
interception
of
communication.

Provided that if the person commits the offence either intentionally, or with reckless disregard, he shall be liable for a term of imprisonment extending upto three years, and shall also be liable to fine.

51. Whoever, except in conformity with the provisions of this Act, orders or carries out, or causes the ordering or carrying out, of any surveillance of another person shall be liable to a fine which may extend to ten crore rupees:

Punishment
for offences
related to
surveillance.

Provided that if the person commits the offence either intentionally, or with reckless disregard, shall be liable for a term of imprisonment extending upto five years, and shall also be liable to fine.

Abetment and repeat offenders.

52. Whoever abets any offence punishable under this Act shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided for that offence.

Offences by companies.

53. (1) Where an offence under this Act has been committed by a company, every person who, at the time of the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

Cognizance.

54. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences under this chapter shall be treated as cognizable and non-bailable.

General penalty.

55. Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice or order issued under any provisions thereof, including an order of the Chief Privacy Commissioner or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to one crore rupees, and, in the case of a continuing failure or contravention, with an additional fine which may extend upto ten lakh rupees for every day after the first during which he has persisted in such failure or contravention.

Punishment to be without prejudice to any other action.

56. The award of punishment for an offence under this Act shall be without prejudice to any other action which has been or which may be taken under this Act with respect to such contravention.

CHAPTER IX

MISCELLANEOUS

Protection of action taken in good faith.

57. No suit or other legal proceeding shall lie against the Central Government, State Government, Privacy Commission, Chief Privacy Commissioner, Privacy Commissioner or any person acting under the direction either of the Central Government, State Government, Privacy Commission, Chief Privacy Commissioner or Privacy Commissioner in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or any order made thereunder.

Power to remove difficulties.

58. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

59. Subject to the provisions of the Schedule to this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Overriding effect.

60. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the notification of theft, loss or damage under sub-section (4) of section 11;
- (b) the notification of disclosure under sub-section (4) of section 13;
- (c) the application by an intelligence organisation under sub-section (2) of section 15;
- (d) the application to intercept a communication under sub-section (1) of section 18;
- (e) the application to renew an interception of communication under sub-section (2) of section 20;
- (f) the notification of an interception of communication under sub-section (1) of section 21;
- (g) the application to not inform under sub-section (2) of section 21;
- (h) the application to store information obtained as a result of any interception of communication under sub-section (2) of section 24;
- (i) the application to carry out surveillance under sub-section (3) of section 26;
- (j) notification to the general public under sub-section (2) of section 27;
- (k) the application to renew surveillance under sub-section (2) of section 28;
- (l) the notification of surveillance under sub-section (1) of section 29;
- (m) the application to not inform under sub-section (2) of section 29;
- (n) the application to store information obtained as a result of surveillance under sub-section (2) of section 32;
- (o) salaries, allowances and other terms and conditions of service of the Chief Privacy Commissioner, Privacy Commissioners, Secretaries and other members, staff and employees of the Privacy Commission;
- (p) procedure to be followed by the Privacy Commission;
- (q) powers and duties of Secretaries, officers and other employees of the Privacy Commission;
- (r) the effective implementation of this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a period of thirty days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

1. Statutes, provisions whereof, shall have to comply with the requirements of this Act—

(a) Sections 43A, 69, 69B, 72 and 72A of the Information Technology Act, 2000.

(b) Sections 28, 29, 30, 31, 32 and 33 of the AADHAAR (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016.

(c) Section 5(2) of the Indian Telegraph Act, 1885.

(d) Section 21 of the Prevention of Money Laundering Act, 2002

(e) The Census Act, 1948.

2. Statutes, provisions whereof shall not be required to comply with the provisions of this Act—

(a) The Representation of the People Act, 1951.

(b) The Right to Information Act, 2005.

STATEMENT OF OBJECTS AND REASONS

Our country is at the threshold of a new technological revolution, marrying welfare with programmes of digitization for the quick and effective delivery of government services and benefits from various schemes. For this process, ranging from electronic banking to the transfer of subsidies, vast amounts of data are collected from our citizens, the integrity of which must be protected. This data can be used for seemingly innocuous purposes such as targeted advertising but also for provision of essential services such as ration, credit, insurance, and more, while unprotected and in the wrong hands, it could also cause damage to the interests of the individual.

Beyond its commercial exploitation there is also an inherent equation of power when a person or entity possesses data and information concerning another individual or groups of individuals. Today, most such interactions are unregulated and put the users of internet and technological services at risk, and this risk will only grow with more and more digitization and as technological involvement in the delivery of services to citizens develops.

Many concerns arise from the absence of a comprehensive data protection and privacy statute which provides rights to individuals in a data governed world. This has been recognized by past efforts of the Government of India notably by the Report of the Group of Experts on Privacy chaired by Justice A.P. Shah, Former Chief Justice, Delhi High Court. Drawing on the recommendations of this expert group, global best practices and also the unique factors that exist locally, this Data Privacy And Protection Bill aims to provide a comprehensive law to protect privacy and data collected from our citizens.

This bill puts a person in control of his/her own data and further permits them to make an informed choice concerning its use. The Bill further provides an industry friendly model of co-regulation that aims to foster a higher degree of certainty for the private sector. The concerns of government are also sought to be addressed with a balanced provision for interception and access, making special provisions to safeguard the security of the State. The aims and objectives of the bill are sought to be implemented by an autonomous privacy commission.

The Data Privacy and Protection Bill, 2017 aims to protect and promote our constitutional ideals in a networked, increasingly digitized society.

Hence this Bill.

NEW DELHI;
July 2, 2017

SHASHI THAROOR

FINANCIAL MEMORANDUM

Clause 33 of this Bill provides for establishment of the Privacy Commission. It also provides for appointment of a Select Committee to fill vacancies in the Privacy Commission. Clause 34 provides for salaries and allowances payable to the Chief Privacy Commissioner and allowances or remuneration payable to the Privacy Commissioners. Clause 36 provides for constitution of an adhoc Committee to serve the functions of the Privacy Commission. Clause 37 provides for the appointment of a secretary, officers and other employees of the Privacy Commission. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees six hundred crore per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred and twenty five crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 60 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 241 OF 2017

A Bill to abolish the death penalty in India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Death Penalty (Abolition) Act, 2017.

Short title,
extent and
commencement.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

45 of 1860.

2. Notwithstanding anything in the Indian Penal Code, 1860 or any other law for the time being in force, no person convicted of any offence shall be punishable with the sentence of death.

Abolition of
death penalty.

Substitution of
death sentence
with Life
Imprisonment.

3. (1) Notwithstanding anything in the Indian Penal Code, 1860 or any other law for the time being in force at the time of commencement, the offences punishable with death sentence shall be read and interpreted as 'Imprisonment for life'.

45 of 1860.

Explanation.—For the purposes of this section, the term 'Imprisonment for life' shall mean imprisonment till the end of the natural life of the convict subject to provisions of section 433 of the Criminal Procedure Code, 1973 (2 of 1974).

STATEMENT OF OBJECTS AND REASONS

The death penalty is a dated form of retributive justice that is untenable with our historic traditions of non-violence and has no place in an India of the 21st century. On the contrary, it is a distraction from the needed strengthening of preventive and reformative models of our judicial systems.

Article 21 of the Constitution of India guarantees every person the right to life and personal liberty, which cannot be deprived except through a procedure established by law, that is just, fair and reasonable. The sentencing of death is measured through the doctrine of 'the rarest of rare.'

Yet, the very nature of this doctrine lends itself to human bias and in turn, stands in stark contradiction with the previous tenet of a judgment beyond the scope of reasonable doubt. This has been noted on occasion by both the Supreme Court itself, as well as the Law Commission which concluded in its analysis of the death penalty in India, that the exercise of mercy powers under articles 72 and 161 of the Constitution, have failed to act as a bulwark against the miscarriage of justice in the imposition of the death penalty. The fact that lower courts award a significant number of death sentences, of which, only a fraction of these are confirmed by the Supreme Court, lends credence to the belief that the 'rarest of rare' doctrine has not been applied in spirit by lower courts.

That a significant percentage of individuals who have been given this sentence hail from socio-economically vulnerable groups illustrate the larger implications of such bias. Further, the utility of capital punishment as a 'deterrent' to crime and terror stands effectively diminished given that comprehensive studies have statistically denied any correlation between rate of crime and death penalty. The existence of such a punishment also renders implausible any scope for reformation of a convict.

The death penalty is untenable to the concept of a just and reasonable legal procedure, as the ends of justice in deterring criminal activity, is not served by the death penalty, more than the punishment of life imprisonment. The penological justifications for the death penalty are no longer valid, in light of the evolving jurisprudence and criminology, in favour of restorative justice, rather than justice motivated by retribution.

Therefore, the death penalty remains an aberration in a healthy democracy and has in effect failed to fulfil the purpose it was designed to. Instead, it has reduced the State, the moral safeguard and gatekeeper of justice for the common citizen to a position of weakness, ignoring Mahatma Gandhi's prescient warning that an 'eye for an eye will make the world blind'. Therefore, in the spirit of justice, fairness and immeasurable value of human life, this Bill seeks to abolish the sentence of death.

Therefore, this Bill.

NEW DELHI;

SHASHI THAROOR

November 27, 2017.

BILL NO. 233 OF 2017

A Bill further to amend the Indian Penal Code, 1860 and the Code of Criminal Procedure Code, 1973.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and
commencement.

1. (1) This Act may be called the Criminal Law (Amendment) Act, 2017.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENTS TO THE INDIAN PENAL CODE, 1860

45 of 1860.

2. In section 354D of the Indian Penal Code, 1860, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of section
354D.

"(1) Whoever—

(i) follows a person and contacts, or attempts to contact such person to foster personal interaction repeatedly despite a clear indication of disinterest by such person, or

(ii) monitors the use by a person of the internet, email or any other form of electronic communication, or

(iii) watches or spies on a person,

in a manner that results in a fear of violence or serious alarm or distress in the mind of such person, commits the offence of stalking:

Provided that such conduct shall not amount to stalking if the person who pursued it proves that—

(i) it was pursued for the purpose of preventing or detecting crime and the person accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

(ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

(iii) in the particular circumstances such conduct was reasonable and justified."

CHAPTER III

AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973

3. In the First Schedule to the Code of Criminal Procedure, 1973, under the heading "I-OFFENCES UNDER THE INDIAN PENAL CODE", for the entries relating to sections 354A, 354C and 354D the following entries shall be substituted, namely:—

Amendment
of the First
Schedule.

| 1 | 2 | 3 | 4 | 5 | 6 |
|-------|--|---|------------|--------------|----------------|
| "354A | Sexual harassment of the nature of unwelcome physical contact and advances or a demand or request for sexual favours, showing pornography. | Imprisonment which may extend to 3 years or with fine or with both. | Cognizable | Non-bailable | Any Magistrate |
| | Sexual harassment of the nature of making sexually coloured remark. | Imprisonment which may extend to 1 year or with fine or with both. | Cognizable | Bailable | Any Magistrate |

| 1 | 2 | 3 | 4 | 5 | 6 |
|------|-----------|--|------------|--------------|-------------------|
| 354C | Voyeurism | Imprisonment of not less than 1 year but which may extend to 3 years and with fine for first conviction. | Cognizable | Non-bailable | Any Magistrate |
| | | Imprisonment of not less than 3 years but which may extend to 7 years and with fine for second or subsequent conviction. | Cognizable | Non-bailable | Any Magistrate |
| 354D | Stalking | Imprisonment up to 3 years and with fine for first conviction. | Cognizable | Non-bailable | Any Magistrate |
| | | Imprisonment up to 5 years and with fine for second or subsequent conviction. | Cognizable | Non-bailable | Any Magistrate.”. |

STATEMENT OF OBJECTS AND REASONS

Protection from sexual violence is a right guarantee specifically within the context of the right to life and personal liberty under article 21 of the Constitution of India. Key to this is the right to dignity, which has long been recognised as an integral part of the Constitution of India.

The State is duty bound under the Constitution to enact legislation that protects women's safety against any threat, or suitably amend legislation that does not effectively address threats to a woman's safety and thereby their constitutionally guaranteed rights of safety and dignity, as laid down by the Supreme Court in *Vishakha Vs State of Rajasthan*.

The offences of sexual harassment, voyeurism and stalking are crimes with serious repercussions. However, the bailable nature of these offences, often leads to the accused obtaining bail without serious judicial scrutiny regarding the risk that the accused may pose to the complainants and the likelihood of the accused attempting to intimidate complainants and witnesses or commit further offences against them. Courts are not expected to grant bail to accused persons who may vitiate the right of the complainant to seek justice. Therefore, it is inconsistent with the jurisprudence of the Supreme Court and the underlying logic of the dichotomy between bailable and non-bailable offences, for such offences to remain as bailable offences.

The fluid nature of the system of bail in these cases effectively also serves as a strong deterrent for women across the country to report these specific crimes in the first place, out of fear of the repercussions it would entail. However, if these laws are suitably amended, it would encourage women from across the demographic, social and economic divide to rise up and speak out against these crimes with fortitude.

The Bill is therefore a progressive step forward to ensuring that women in our country can lead dignified and empowered lives, a fulfilment of their constitutionally guaranteed right to life and personal liberty.

Therefore, this Bill.

NEW DELHI;
November 27, 2017.

SHASHI THAROOR

BILL NO. 78 OF 2018

A Bill further to amend the Cinematograph Act, 1952.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Cinematograph (Amendment) Act, 2018.

(2) It shall come into force on such date as the Central Government may by notification in the Official Gazette, appoint.

Amendment
of section 4.

2. In section 4 of the Cinematograph Act, 1952 (hereinafter referred to as the principal Act),—

(a) in sub-section (1), clause (iii) shall be omitted; and

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) No person apart from the Board shall sanction films for public exhibition."

3. In section 5B of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 5B.

"(2) Subject to the provisions contained in sub-section (1), the Board shall exercise its power to certify a film for public exhibition in accordance with the guidelines mentioned in Schedule I."

4. In section 5C of the principal Act in sub-section (1), clause (e) shall be omitted.

Amendment of section 5C.

5. Section 6 of the principal Act shall be omitted.

Omission of section 6.

6. In section 13 of the principal Act, in sub-section (1), for the words "likely to cause a breach of the peace, by order, suspend the exhibition of the film", the words "likely to cause a breach of public order, despite taking reasonable measures to prevent the same, by order, suspend the exhibition of the film" shall be substituted.

Amendment of section 13.

7. After Part IV of the principal Act, the following Schedule shall be inserted,—

Insertion of Schedule I.

"SCHEDULE I

PART I

OBJECTIVE OF GUIDELINES

1. These guidelines shall ensure that—

(a) Children and adults are protected from potentially harmful or otherwise unsuitable content;

(b) Audiences, particularly parents and those with responsibility for children, are empowered to make informed viewing decisions;

(c) Artistic expression and creative freedom are not unduly curbed in the process of classification of films;

(d) The process of certification by Board is responsive, at all times, to social change.

PART II

CATEGORY OF CERTIFICATION

2. Certification of a film by the Board shall be in the following categories—

(a) U—film suitable for all persons, regardless of age, and is often family friendly;

(b) U/A 12+ — film suitable for persons above twelve years of age or for a person under the age of twelve with parental guidance;

(c) U/A 15+ — film suitable for persons (adolescents) above fifteen years or for a person under the age of fifteen with parental guidance;

(d) A—film suitable for public exhibition, but restricted to adults;

(e) C (A with Caution)—film restricted for adults with the specific purpose of cautioning them that it has more than a reasonable amount of content such as violence, sex, nudity, drugs and other related contents;

(f) S—film restricted to viewership by members of a profession or any class of persons, having regard to the nature, content and theme of the film.

PART III

GENERAL GUIDELINES FOR CLASSIFICATION OF FILMS

3. There are general factors that may influence a classification decision at any level and in connection with any issue. The following factors, and the intention of the filmmaker

vis-a-vis the same, are of particular importance when a film or video is a borderline case between two stages categories, and are to be read with Part IV of the Guidelines.

(a) Context:

The Board shall ensure that a film is examined in the light of the period depicted in the film and the contemporary standards of the country and the people to which the film relates to. Therefore, the context in which an issue is presented within a film or video shall be given consideration. Factors such as the setting of a work (historical, fantasy, realistic and contemporary), the manner of presentation of the film, the apparent intention of the film, the original production date of the work, and any special merits of the work may influence the classification of films.

(b) Theme:

Classification of films shall take into account the theme of a work, but shall depend significantly on the treatment of that theme, and especially the sensitivity of its presentation. The most challenging themes (for example, drug misuse, violence, paedophilia, sex, racial or communal hatred or violence) are unlikely to be appropriate at the most junior levels of classification.

(c) Tone and Impact:

The Board shall ensure that a film is judged in its entirety from the point of view of its overall impact. The tone of the film may be an important factor in deciding the influence it may have on various groups of people. Thus, films that have a dark and unsettling tone may receive a higher classification. Other tonal considerations that might have an influence on classification include the extent to which the film presents a view of the world that is anti-life, pessimistic, or despairing or the extent to which transgressive or harmful behaviour is condoned or made to appear normal.

(d) Target Audience:

The classification of the film shall also depend upon the target audience of the work and the impact of such work on such audience.

PART IV

CATEGORIZATION GUIDELINES

4. This Part of Guidelines provides the specific approach the Board shall take for various categories of certification from U to A-C.

(a) U

Films classified as 'U' shall be suitable for all audiences of all ages, set within a positive framework and should offer reassuring counterbalances to any violence, threat or horror and shall take into account:—

(i) *Discrimination*—Discriminatory language or behaviour shall not be acceptable unless clearly disapproved of in the film;

(ii) *Psychotropic Substances, Liquor, Smoking, Tobacco*—References to illegal drugs, or misuse of drugs, cigarettes, liquor shall be infrequent and innocuous, or have a clear educational purpose or anti-drug message suitable for young children;

(iii) *Imitable behaviour*—Potentially dangerous or anti-social behaviour which young children may copy shall be clearly disapproved of and no emphasis on realistic or easily accessible weapons such as knives shall be made thereto;

(iv) *Language*—Infrequent use only of very mild offensive language;

(v) *Nudity*—The work may have infrequent nudity but with no sexual context;

(vi) *Sex*—The work may have only very mild sexual behaviour such as kissing, and references to such behaviour;

(vii) *Fear, Threat & Horror*—Scary or potentially unsettling sequences should be mild, brief, and unlikely to cause undue anxiety to young children and the outcome should be reassuring; and

(viii) *Violence*—Violence should generally be very mild and acceptable if it is justified by context (for example, comedic animated, wholly unrealistic).

(b) U/A-12+

Films classified as 'U/A-12+' shall not unsettle a child aged around twelve or older. Unaccompanied children of any age may watch, but parents are advised to consider whether the content may upset younger, or more sensitive children taking into account:—

(i) *Discrimination* — Discriminatory language or behaviour shall not be acceptable unless clearly disapproved of, or in an educational or historical context, or in a particularly dated work with no likely appeal to children. Discrimination by a character with whom children may readily identify is unacceptable;

(ii) *Psychotropic Substances, Liquor, Smoking, Tobacco* — References to illegal drugs, or misuse of drugs, cigarettes, liquor shall be infrequent and innocuous, or have a clear educational purpose or anti-drug message suitable for young children;

(iii) *Imitable behaviour* — No detail of potentially dangerous behaviour that young children are likely to copy, if that behaviour is presented as safe or fun. No glamorization of realistic or easily accessible weapons such knives. No focus on anti-social behaviour which children are likely to copy;

(iv) *Language* — Infrequent mild offensive language use only, provided that the theme calls for the same;

(v) *Nudity* — There may be nudity with no sexual context;

(vi) *Sex* — Sexual activity may be implied, but shall be discreet and infrequent. Mild sex references and innuendos only;

(vii) *Fear, Threat & Horror* — Frightening sequences or situations where characters are in danger shall not be prolonged or intense and fantasy settings may be a mitigating factor; and

(viii) *Violence* — Violence will usually be mild. However, there may be moderate violence, without detail, if justified by its context (for example, history, comedy or fantasy).

(c) U/A- 15+

Films classified as U/A-15+ contain material that is generally not suitable for children aged under fifteen but may be viewed by adolescents. No one younger than fifteen may see a U/A-15+ film in a cinema unless accompanied by an adult. Adults planning to take a child under fifteen to view a U/A-15+ film shall consider whether the film is suitable for that child taking into account:—

(i) *Discrimination* — Discriminatory language or behaviour shall not be endorsed by the work as a whole. Aggressive discriminatory language or behaviour shall not be acceptable unless clearly condemned;

(ii) *Psychotropic Substances, Liquor, Smoking, Tobacco* — Misuse of drugs, cigarettes, liquor, shall be infrequent and shall not glamorized or give instructional detail;

(iii) *Imitable behaviour* — No promotion of potentially dangerous behaviour which children are likely to copy. No glamorization of realistic or easily accessible weapons such as knives;

(iv) *Language* — There may be moderate language. Abuse, vulgar and sadistic expression may be permitted, depending on the manner in which it is used, who is using the language, its frequency within the work as a whole and any special justification;

(v) *Nudity* — There may be nudity, but very discreet sexual context;

(vi) *Sex* — Sexual activity may be discreetly portrayed. Moderate sex references are permitted, provided that they have a place in the context of the narrative of the film;

(vii) *Fear, Threat & Horror* — There may be moderate physical and psychological fear inducing and horror sequences. Although some scenes may be disturbing, the overall tone should not be so. Horror sequences shall not be frequent or sustained;

(viii) *Violence* — There may be moderate violence but it shall not dwell on detail. There shall be no emphasis on injuries or blood, but occasional gory moments may be permitted if justified by context. Sexual violence may only be implied or briefly, and discreetly indicated, and its depiction shall be justified by context;

(d) A

Films classified as 'A' are suitable only for persons of the age of eighteen years and above taking into account:—

(i) *Discrimination* — While there may be discriminatory themes and languages in the film, the film as a whole shall not endorse or glorify discriminatory language or behaviour;

(ii) *Psychotropic Substances, Liquor, Smoking, Tobacco* — Imbibing of these elements may be shown, but the work as a whole shall not promote or encourage misuse of the same. The misuse of easily accessible and highly dangerous substances (for example, aerosols or solvents) is not acceptable;

(iii) *Imitable behaviour* — Dangerous behaviour (for example, committing suicide or inflicting self-harm) shall not be shown in detail that could be copied by others. Context, realism and setting shall determine the acceptability of depiction of easily accessible weapons;

(iv) *Language* — Very strong language, including abuse and vulgar words is permitted;

(v) *Nudity*—There may be nudity, even in a sexual context, but without explicit detail;

(vi) *Sex*—Sexual activity may be portrayed but without strong detail. References to sexual behaviour is permitted, but very strong reference can only be justified in context. Works whose primary purpose is sexual arousal or stimulation is not acceptable;

(vii) *Fear, Threat & Horror*—There may be strong threat and horror. A sustained focus on sadistic or sexual threat is not acceptable;

(viii) *Violence*—Strong violence is permitted, but explicit gory images are not acceptable. Strong sadistic violence is not acceptable, there may be detailed verbal references to sexual violence but the depiction of sexual violence must be discreet and justified by context.

(e) A-C

(i) Films categorized as A-C are suitable only for adults above the age of 18 years, with the caution that the film has more than a reasonable amount of

content falling under restricted categories such as violence, sex, nudity and drugs;

(ii) Films under this category shall not qualify for certification in the event of the following—

(1) Where the material is in breach of criminal law, or has been created through the commission of a criminal offence;

(2) Where material or treatment appears to the Board to risk harm to individuals;

For example, the detailed portrayal of violent or dangerous acts, or of illegal use of psychotropic substances, which may cause of public harm or morals. Other examples may include portrayals of sadistic or sexual violence that make this violence looking appealing; reinforce the suggestion that victims enjoy sexual violence; or films that invite viewer complicity in sexual violence or other harmful violent activities;

(3) Where the work is pornographic in nature and or compromises explicit sexual activity or dialogue that is non-contextual in nature. However, any sexually explicit material for educational purposes shall be allowed;

(4) Where the work involves sadistic or sexual violence with children;

(5) Where the work, including its dialogues, are likely to encourage an interest in sexually abusive activity which may include adults role-playing as non-adults.

(f) S

Films categorized as S are meant for viewership for members of a profession or any class of persons, having regard to the nature, content and theme of the film, fall under this category.

PART V

CLASSIFICATION OF A FILM BY BOARD

5. (i) When an applicant producer or distributor submits the final cut of the film to the Board, he shall specify his target audience and the classification sought. If the Board is of the view that the film can be certified by them as per the preceding guidelines for certification, the Board shall inform the producer/distributor about the likely classification the work will receive and reasons for such decision.

(ii) If the applicant producer/distributor does not accept a particular classification given to its film, he shall have the liberty to effect changes to the film and resubmit the same to the Board for achieving the desired category.

(iii) The Board shall not propose or make any cuts, revisions or modifications to the film to meet any of the classification categories.

(iv) The Board may, in the event that it is of the view that the film does not merit classification under any category in accordance with the Guidelines contained herein, refuse to accord certification under any of the above categories, and record its reasons in writing for such decision.

(v) The Board shall, while refusing the certification, communicate the reasons for so doing to the applicant producer or distributor and due opportunity shall be given to him to be heard before such an order is passed, in which reasons for refusal of certification shall be recorded in detail by the concerned authority:

Provided that the applicant shall be given a period of fifteen days, from the date of communication of reasons, to respond and submit his argument in favour of the classification sought."

STATEMENT OF OBJECTS AND REASONS

The freedom of speech and expression guaranteed to all citizens of India under article 19(1) (a) of the Constitution of India is a fundamental basis for the manifestation of all forms of liberties.

Artistic freedom is an essential part of the freedom of speech and expression, the pursuit of art is integral to the cultural development of our country. Artists, particularly film makers should have a wide scope of freedom to express their various ideas and skills. The State may regulate artistic freedom only under the grounds enumerated under article 19(2) of the Constitution, not due to disagreement with the content of the film.

The exceptions to the freedom of speech and expression must be interpreted and read in a strict and narrow manner. The power to regulate cinema must be exercised in exceptional situations, and only due to an overriding compelling public interest.

The pre-censorship powers of the Central Board of Film Certification and the revisional powers of the Union Government constitute a paternalistic policy, which is incompatible with the polity of a mature democracy. The mandate of the Central Board of Film Certification should be strictly confined to the certification of films. The power to certify a film should rest exclusively with the Central Board of Film Certification and should not be supplanted by another entity. The power to certify a film should not be exercised in an arbitrary fashion, but in accordance with reasonable statutory guidelines.

The State has the positive mandate to uphold the space for free speech as guaranteed by the Constitution, and ensure strict action is taken against lawless elements which try to disrupt the free flow of cinematic expression. The State should only resort to the power of suspension of films as a last resort in order to maintain public order, after taking all necessary steps to prevent the disruption of public order. It is necessary that these principles are reflected in the Cinematograph Act, 1952.

Hence, this Bill.

NEW DELHI;
January, 30, 2018.

SHASHI THAROOR

BILL NO. 180 OF 2017

A Bill to provide for the constitution of a Board for the conservation of archaeological and natural heritage and for matters connected therewith or incidental thereto.

WHEREAS the United Nations Educational Scientific and Archaeological Organization Convention concerning the Protection of the World Archaeological and Natural Heritage was held in Paris in 1972, which India ratified in 1977 to ensure effective and active measures for protection, conservation and presentation of the archaeological and natural heritage situated on the territory of each State Party;

AND WHEREAS, it is expedient and necessary to enact a law for the purpose of implementing the decisions to take appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of archaeological and natural heritage.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Archaeological and Natural Heritage Conservation Act, 2017.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definition.

2. (1) In this Act, unless the context otherwise requires,—

(a) 'Board' means the Archaeological and Natural Heritage Conservation Board constituted under section 3;

(b) 'Convention' means the United Nations Educational, Scientific and Archaeological Organization Convention concerning the Protection of the World Archaeological and Natural Heritage held in Paris in 1972 and ratified by India in 1977;

(c) 'Archaeological Heritage' includes the following:—

(i) 'ancient monument' and 'archaeological sites and remains' defined in clauses (a) and (d), respectively, of section 2 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958;

(ii) monuments, that is to say, architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwelling and combinations of features, which are of outstanding universal value from the point of view of history, art or science;

(iii) groups of buildings, groups of separate or connected buildings which, because of their architecture, homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;

(iv) sites, that is to say, works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view;

(d) "natural heritage" includes,—

(i) natural sites or precisely delineated natural areas which are of outstanding value from the point of view of science, conservation or natural beauty;

(ii) geological and physiographical formations and precisely delineated area which constitute the habitat of threatened species of animals and plants and are of outstanding value from the point of view of science or conservation;

(iii) natural features consisting of physical and biological formations or groups of such formations, which are of outstanding value from the aesthetic or scientific point of view; and

(e) "prescribed" means prescribed by rules made under this Act.

(2) The words and expressions used in this Act but not defined herein and defined in the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or the Indian Penal Code, 1860 or the Code of Criminal Procedure, 1973 shall have the same meaning, respectively, assigned to them in those Acts.

24 of 1958
45 of 1860
2 of 1974

Constitution
of the
Archaeological
Heritage
Conservation
Board.

3. (1) The Central Government, shall, by notification in the Official Gazette, constitute a Board to be known as the Archaeological and Natural Heritage Conservation Board for carrying out the purposes of this Act.

(2) The Board shall consist of,—

(a) a Chairperson to be appointed by the Central Government, from amongst the persons having such knowledge and experience, as may be prescribed;

(b) fourteen other members to be appointed by the Central Government from amongst the persons who have knowledge and experience in the field of archaeology, history, architecture, conservation, science and technology, environment science, town and country planning or public administration:

Provided that the Chairperson and the members of the Board shall be appointed in consultation with the Leaders of Opposition of both the Houses of Parliament.

(3) The Chairperson and every member of the Board shall hold office for a period of five years from the date on which he enters upon his office.

(4) The salary and allowances payable to, and the other terms and conditions of service of the Chairperson and the members of the Board shall be such as may be prescribed.

(5) The terms and conditions of the office, including the method of filling casual vacancies in the Board, and the procedure for removal or disqualification of the Chairperson or a member of the Board, shall be such as the Central Government may, by notification in the Official Gazette, specify.

(6) The Board may, with the approval of the Central Government, make regulations for regulating its own procedure.

(7) The Board shall have a Secretariat consisting of such number of officers and employees as may be prescribed.

(8) The salary and allowances payable to, and the other terms and conditions of service of, the officers and employees of the secretariat shall be such as may be prescribed.

4. The Board shall—

Functions of
the Board.

(i) To monitor the implementation of obligations under the Convention and issue such directions as it may consider necessary and expedient for the effective implementation of such obligations;

(ii) To advise to the Central Government on identification, safe-keeping, conservation and preservation of archaeological heritage and natural heritage;

(iii) To issue such directions as it considers necessary to ensure safety, security, conservation and management of archaeological heritage and natural heritage;

(iv) to cause or undertake an inquiry and initiate legal action in consultation with the Central Government, in case of offences relating to archaeological heritage and natural heritage sites;

(v) to take such measures as it may consider necessary for implementation of the provisions of this Act; and

(vi) to undertake such other functions as may be assigned to it by the Central Government for carrying out the purposes of this Act.

5. Whoever—

Offences.

(i) damages or causes any damage to archaeological heritage or natural heritage site; or

(ii) indulges in any propaganda with the intention of causing any damage to archaeological heritage or natural heritage site; or

(iii) commits any offence under section 30 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958; or

(iv) commits or omits to commit any act in relation to archaeological heritage or natural heritage sites, which is an offence under any other law for the time being in force;

shall be guilty of committing an offence under this Act.

| | |
|---|--|
| Punishment. | 6. Any person who commits any offence under section 5 shall be punishable with rigorous imprisonment for a term which may extend to five years, or with fine, which may extend to one lakh rupees, or with both. |
| Proceedings after the expiry of the period of limitation. | 7. Notwithstanding anything contained in any other law for the time being in force, proceedings of committing an offence under this Act may be instituted after the expiry of the period of limitation. |
| An offence under the Act to be a cognizable offence. | 8. Notwithstanding anything contained in any other law for the time being in force, an offence punishable under this Act shall be deemed to be a cognizable offence. |
| Every person holding a civil post to assist the Board. | 9. It shall be the duty of every person holding a civil post in connection with the affairs of the Union or a State to assist the Board in discharge of its functions. |
| Act to have overriding effect. | 10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. |
| Provisions of the Act to be in addition to other laws. | 11. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force. |
| Annual report. | <p>12. (1) The Board shall prepare an annual report, in such form and manner, as may be prescribed.</p> <p>(2) The Board shall submit the annual report to the Central Government.</p> <p>(3) The annual report shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament:</p> <p>Provided that the Board may also submit interim report or reports to the Central Government, which shall cause the report to be laid, as soon as may be after it is received, before each House of Parliament.</p> |
| Power to make rules. | <p>13. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.</p> <p>(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p> |

STATEMENT OF OBJECTS AND REASONS

The United Nations Educational, Scientific and Cultural Organization (UNESCO) in its 17th General Assembly meeting on 16th November, 1972 adopted a Convention relating to the conservation of World Archaeological and Natural Heritage. India has ratified this convention on 14th November, 1977. Hence, it is in our own interest to implement this convention and enact a law to give effect to the provisions of the Convention. For the conservation of Archaeological Heritage, a suitable mechanism for vigilance and monitoring is needed. These purposes would be better served if a Board to be known as the Archaeological and Natural Heritage Conservation Board is set up to work as a watchdog agency for the conservation, upkeep and maintenance of the archaeological heritage and natural heritage sites in the country.

The terms 'archaeological heritage' and 'natural heritage' have been given a very comprehensive meaning to include all archaeological and natural heritage, provided for in the Convention and the terms also cover the ancient monuments and archaeological sites and remains defined in the Ancient Monuments and Archaeological Sites and Remains Act, 1958.

Our archaeological and natural heritage sites are vulnerable even now. We all know that people who visit such sites are not sensitive enough to try and keep such sites well maintained. It is a common practice to deface our monuments by inscribing names on them. There have also been other cases of vandalism against our archaeological and natural heritage sites. Keeping in view the increasing number of crimes against such sites, there is a need to provide for punitive action for such crimes.

The Bill seeks to achieve the above objectives.

Hence this Bill.

NEW DELHI;
July 26, 2017.

KAVITHA KALVAKUNTALA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Archaeological and Natural Heritage Conservation Board for the conservation of the Archaeological sites in the country. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees one hundred crore per annum.

A non-recurring expenditure of rupees one hundred and fifty crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Board to make regulation for regulating its own. Clause 13 empowers the Central Government to make rules for carrying out the purposes of the Bill. The matters in respect of which rules and regulations may be made are matters of administrative details and procedure and, as such, the delegation of legislative power is of a normal character.

As the rules and regulations will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 15 OF 2018

A Bill further to amend the Drugs and Cosmetics Act, 1940.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Drugs and Cosmetics (Amendment) Act, 2018.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Drugs and Cosmetics Act, 1940, after Chapter III, the following Chapter shall be inserted, namely:—

Insertion of
new Chapter
IIIA.

"CHAPTER IIIA

CLINICAL TRIALS OF DRUGS

15A. (1) The Central Government shall, by notification in the Official Gazette, constitute a Board to be known as the Clinical Trials Accreditation Board which consists of the following members, namely:—

Constitution of
Accreditation
Board.

(a) Secretary to the Government of India, Ministry of Health and Family Welfare, Department of Health and Family Welfare—Chairperson, *ex-officio*;

(b) Directors of all All-India Institutes of Medical Sciences—Members, *ex-officio*;

(c) Director-General of Health Services, Directorate General of Health Services, New Delhi—Members, *ex-officio*;

(d) Director, Post Graduate Institute of Medical Education and Research, Chandigarh—Member, *ex-officio*;

(e) Director, Post Graduate Institute of Medical Education and Research, New Delhi—Member, *ex-officio*; and

(f) Director, Jawaharlal Institute of Post Graduate Medical Education and Research, Puducherry—Member, *ex-officio*;

(2) The Accreditations Board shall accredit investigators and trial sites for conduct of clinical trial of drugs.

(3) The Accreditation Board shall appoint a Registrar to maintain a registry of clinical trials and their outcomes.

(4) The Accreditation Board shall constitute a Committee of Experts to examine applications for conduct of clinical trials by accredited investigators.

(5) The Accreditation Board shall appoint such officers and staff as are necessary for discharge of its functions under this Act.

Conduct of
clinical trials.

15B. (1) A clinical trial shall be conducted only by an accredited investigator entity at an accredited trial site.

(2) An accredited investigator shall apply to the Committee of Experts for permission to conduct clinical trials.

(3) Each such application shall be examined by the Committee of Experts, with special reference to, but without prejudice to examination of any other aspect that may be relevant, the possibility of serious adverse consequences for human subjects, existence of free and informed consent of human subjects and the provisions for adequate compensation in the case of any injury or adverse effect on such subjects due to the clinical trial.

(4) The Committee of Experts shall give its decision on an application for clinical trial within sixty days:

Provided that the Accreditation Board may, for reasons to be recorded in writing, reverse the decision of the Committee of Experts within a period of ten days from the date of decision of the Committee of Experts.

Informed
consent.

15C. Every human subject participating in a clinical trial shall be informed about the entire procedure of clinical trial and the possible adverse effects of such trial on his health:

Provided that unless an application for clinical trial is accompanied by a declaration of free and informed consent made by such human subject, no permission for clinical trial shall be granted.

Compensation.

15D. Every human subject participating in a clinical trial or his legal heirs, as the case may be, shall be paid adequate monetary compensation in the case of any adverse effect on his health during the course of a clinical trial or as an after-effect of the trial:

Provided that in the case of death of the human subject or a serious adverse effect on his health causing permanent disability, the compensation shall not be less than ten lakh rupees.

15E. (1) Whoever, himself or by any other person on his behalf, conducts clinical trial of drugs without obtaining permission under section 15B, shall be punished with imprisonment for a term which shall not be less than three years and shall also be liable to fine which shall not be less than twenty lakh rupees.

Penalty for conducting clinical trial without permission.

(2) Whoever, himself or by any other person on his behalf, conducts clinical trial without obtaining permission and such trial causes grievous hurt or death of trial participant, shall be punished with imprisonment for a term which shall not be less than five years but which may extend to eight years and shall also be liable to fine which shall not be less than thirty lakh rupees.

(3) The fine imposed under this section shall be paid to the trial participant or, as the case may be, his legal heirs.

15F. Whoever, having been convicted of an offence under section 15E is again convicted under that section, shall be punished with imprisonment for a term which shall not be less than ten years and shall also be liable to fine which shall not be less than fifty lakh rupees.

Penalty for repeat offence.

15G. Whoever, responsible to provide compensation for clinical trial related injury or death under this Chapter fails to do so, shall be punished with imprisonment which may extend to three years and with fine which shall not be less than twice the amount of the compensation.

Penalty for failure to provide compensation.

15H. Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to the proceedings against and punished accordingly:

Offences by companies.

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

Explanation.—For the purpose of this section—

(i) "Company" means any body corporate and include a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm."

STATEMENT OF OBJECTS AND REASONS

India has been a major target for investigators seeking human subjects for clinical trials of drug both by multi-national corporations as well as Indian pharmaceutical companies. The high mortality rates and serious adverse effects on the health of human subjects have often been considered indicative of the fact that human subjects in clinical trials are being treated as guinea pigs in India. The fact that in many cases no compensation is paid and, even where it is paid, it is not sufficient relative to the injury suffered by the human participant due to the clinical trial, shows the lack of sensitivity for such cases.

In view of the above, the Bill seeks to make the following amendments in the Drugs and Cosmetics Act, 1940—

(i) providing for establishment of an Accreditation Board for granting accreditation to investigators (who will conduct trials) and trials sites (which can be a hospital or other place where the trial will be conducted);

(ii) constitution of a Committee of Experts to examine applications for clinical trials;

(iii) appointment of a Registrar for keeping registry of clinical trials and their outcomes;

(iv) providing for mandatory free and informed consent from human subjects participating in clinical trials and provision of adequate compensation for injuries or death due to such trials; and

(v) providing for punishment for conduct of clinical trials without permission and for failure to provide compensation.

Hence this Bill.

NEW DELHI;
December 18, 2018.

KAVITHA KALVAKUNTALA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for constitution of an Accreditation Board, a Committee of Experts, and appointment of a Registrar and other officers and staff of the Accreditation Board. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure about rupees seven crore will be involved per annum.

A non-recurring expenditure of about rupees thirty crore is also likely to be involved.

BILL NO. 58 OF 2018

A Bill to provide for the reservation in posts and services of the Central Government and Public Sector Undertakings for kapu community with a view to improving their living standard and extending them the benefits of progress made by the country after independence and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Reservation in Posts and Services for Kapu Community of Andhra Pradesh Act, 2018.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "kapu" means the people belonging to the Telaga, Kapu, Ontari, Balija communities of the State of Andhra Pradesh; and

(b) "establishment" means an establishment which is owned, established, controlled, managed or financed by the Central Government and includes—

(i) a Ministry or department or subordinate office or attached office of the Central Government;

(ii) a public sector undertaking or statutory authority constituted under any Central Act;

(iii) a corporation in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government;

(iv) a Government company as defined under clause (45) of section 2 of the Companies Act, 2013; and

(v) an autonomous body, organisation or institution receiving grant or aid from the Consolidated Fund of India.

18 of 2013.

3. There shall be reserved such percentage of posts, not below five per cent. of total posts in every establishment, for the persons belonging to kapu community.

Reservation of posts in establishments for persons belonging to Kapu community.

4. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulty.

Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

5. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or anything contained in any judgment of any court of law contrary to it including judgment regarding ceiling on reservation.

Power to make rules.

6. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Act to have over-riding effect.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The British Government in Madras Presidency had recognized Kapus as backward caste in 1915 and also included in the backward classes list of Andhra region. With the formation of the State of Andhra Pradesh on 1st October, 1953, a list of Backward Classes as existed in the Composite Madras State was adopted with slight modifications and the Kapus continued to enjoy the status of backward classes. In 1956, the then Andhra Pradesh Government omitted Kapus from the backward classes list. Again, though the successive Government tried to recognize them as other backward classes through a Government Order, the High Court struck down the Order on technical grounds.

There was a long standing demand for the inclusion of Kapu sub-castes *i.e.*, Telaga. Kapu, Ontari and Baliya into the Backward Classes category. On the basis of an expert advice of the Andhra Pradesh State Backward Classes Commission that Kapu community be given reservation in appointments and educational institutions in view of their social, economic and educational backwardness, the State Government came to a conclusion that there is every need for inclusion of Kapus into the Backward Classes category for their upliftment and all round advancement and passed a legislation to that effect. The need is to include the Kapu community in the Central list of backward classes in respect of the State of Andhra Pradesh to extend the benefits of reservation to them.

The Bill, therefore, seeks to provide for the reservation in posts and services of the Central Government and Public Sector Undertakings for persons belonging to Kapu community with a view to improve their living standard and extending the benefits of reservation to them which are available to persons belonging to other backward classes.

Hence this Bill.

NEW DELHI;
January 18, 2018.

MUTHAMSETTI SRINIVASARAO

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 61 OF 2018

A Bill to provide for the use of official language in the proceedings of the Supreme Court and the High Courts and certain other provisions and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Supreme Court and the High Courts (Use of Official Languages and Other Provisions) Act, 2018.

(2) It shall come into force on such date as the Central Government may, by a notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date as may be notified by the appropriate Government for the purposes of this Act;

(b) "appropriate Government" means—

(i) in relation to the Supreme Court and High Court of NCT of Delhi, the Central Government; and

(ii) in relation to the High Court of a State, the Government of that State;

(c) "document" means document as defined in section 3 of the Indian Evidence Act, 1872;

(d) "High Court" means any Court as defined in clause (14) of article 366, or established under article 231 of the Constitution and includes its benches;

(e) "official language" means the official language of the Union under article 343 of the Constitution and includes the language in use for official purposes in any State in which the High Court for that State is located;

(f) "party" includes any person authorized by the party to the matter or an advocate for the party;

(g) "proceedings" includes pleadings, petition, application, appeal, reference, revision, review, affidavit, counter affidavit, other documents filed or received during course of conduct of the matter, appearance, leading of arguments, during hearing in any matter, judgment, decree or order and such other matters as may be prescribed by the Supreme Court or a High Court, as the case may be; and

(h) "Supreme Court" means the Supreme Court of India.

3. (1) From the appointed day, any party to the proceedings before the Supreme Court and a High Court shall have the right to prefer the official language in conduct of such proceedings in the Supreme Court or a High Court, as the case may be.

Right of the Party to Prefer official language during the course of proceedings.

(2) The party to the proceedings shall make an application to the Supreme Court or a High Court for the conduct of the proceedings in the official language in such manner as may be laid down by the Supreme Court or a High Court, as the case may be, under section 4.

4. (1) Where any party to the proceedings has made preference for the conduct of proceedings in official language, the Supreme Court or a High Court, as the case may be, shall conduct proceedings before it in the official language.

Conduct of proceedings in the Supreme Court and a High Court.

(2) The Supreme Court or a High Court, as the case may be, may lay down by rules the procedure for conduct of proceedings in the official language:

Provided that such procedure shall not entail any additional expense on any party to the case for conducting such proceedings in the official language.

5. The appropriate Government shall,—

(a) bear the fees of advocates, as may be determined by it, from time to time, for such parties to the proceedings who are below poverty line;

(b) fix the maximum fees to be charged by senior advocates in the Supreme Court and the High Court;

(c) bear the expenses of translation of proceedings from other languages in English language; and

(d) ensure availability of requisite infrastructure in the Supreme Court and the concerned High Court within its jurisdiction for conduct of proceedings in the official language in the Supreme Court or a High Court, as the case may be, from the appointed day.

Measures by appropriate Government.

Explanation.—For the purpose of this section, requisite infrastructure includes appropriate translation and typing facility in the official language and such other facilities as may be necessary for conduct of the proceedings in the official languages.

STATEMENT OF OBJECTS AND REASONS

For effective working of democracy, different types of responsibilities have been assigned to Legislature, Executive and Judiciary. The responsibility of protection of honour, property and constitutional rights and their periodic review lies with the Judiciary. But common people face a lot of difficulties for obtaining justice from the Supreme Court and the High Courts due to hindrances *viz.* language, translation fees of language and ineffective performance of prosecution.

For easy delivery of justice to common people and for removing difficulties of financial expenses and other such issues, concerned parties should be given right to submit affidavit, debates and writs in Hindi or in other local languages. Also the expenses of translation from English language into other language in the Courts must be incurred by the Courts and the Government. Maximum limit of the fees charged by senior advocates must be fixed. Entire expenses regarding the proceedings and fees of advocates appearing in the cases and appeals in High Court and the Supreme Court on behalf of people living below poverty line should be incurred by the Government.

Hence this Bill.

NEW DELHI;
January 29, 2018.

AJAY MISRA 'TENT'

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides that the appropriate Government shall take such measures as may be necessary including bearing of the fees of advocates for any party to the proceedings who are below poverty line, as may be determined by it and ensuring availability of requisite infrastructure to the Supreme Court or a High Court within its jurisdiction for conduct of proceedings in the official language in the Supreme Court or a High Court, as the case may be, from the appointed day. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. However, at this stage, it is not possible to quantify the exact amount of recurring and non-recurring expenditure likely to be involved.

BILL NO. 160 OF 2017

A Bill further to amend the Wild Life (Protection) Act, 1972.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Wild Life (Protection) Amendment Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of
new section 8A.

2. After section 8 of the Wild Life (Protection) Act, 1972 (herein referred to as the principal Act), the following section shall be inserted, namely:— 53 of 1972.

Constitution of
Local Advisory
Committee.

"8A. (1) The State Government shall, in each sanctuary, constitute a Local Advisory Committee to assist the State Board for Wild Life constituted under section 6.

(2) The Local Advisory Committee shall consist of:—

(a) the Chief Wildlife Warden not below the rank of Divisional Forest Officer—Chairperson;

(b) Member of Legislative Assembly within whose constituency the sanctuary is situated— Member;

(c) two representatives of the Panchayati Raj Institutions— Members;

(d) one representative of non-governmental organisations— Member;

(e) one person having expertise in the field of wildlife conservation— Member;

(f) one representative each from departments of the State Government dealing with Home and Veterinary matters—Members; and

(g) the officer in-charge of the sanctuary as Member-Secretary,

to be appointed by the State Government in such manner as may be prescribed.

(3) The Committee shall meet quarterly to deliberate and render advice on the measures to be taken for better conservation and management of the sanctuary including participation of the people living within and around the sanctuary.

(4) The Committee shall regulate its own procedure including quorum.

(5) The minutes of the meeting of the Committee shall be submitted to the Chief Wildlife Warden within a period of ten days."

3. In section 38-O of the principal Act, in sub-section (1),—

(i) for sub-clauses (c), (d), (e) and (f), the following sub-clauses shall be substituted, namely:—

Amendment
of section
38-O.

"(c) lay down normative standards for eco-tourism activities, tourism activities and guidelines, from time to time, for tiger conservation in the buffer and core areas of tiger reserves;

(d) assist Tiger Conservation Foundation by laying down normative measures for addressing conflicts of men, wild trees and wild animals and emphasize on co-existence in the forest areas outside the National parks, sanctuaries or tiger reserves, as the case may be, in the working plan code;

(e) provide information on protection measures through future conservation plan based on the report of the Steering committees constituted under sub-section (2) of section 38U;

(f) co-ordinate research and monitoring on tiger, co-predators, prey, habitat, related ecological and socio-economic parameters and their evaluation;"

(ii) after sub-clause (j), the following sub-clauses shall be inserted, namely:—

(ja) facilitate and coordinate the functioning of several Tiger Conservation Authorities in different States constituted under the Act; and

(jb) decide, in consultation with the National Board for Wild Life, the State Boards for Wild Life and the appropriate Union Ministry, the quantum of compensation payable in the event of wild life-human conflict, in addition to the immediate payment of *ex-gratia* compensation;"

(iii) in sub-clause (k), for the word "functions", the words, "residuary functions" shall be substituted.

4. After section 38P, the following section shall be inserted, namely:—

Insertion of
new section
38PA.

"38PA. (1) The Central Government shall, by notification in the Official Gazette, constitute a Regulatory Authority to regulate the activities of the National Tiger Conservation Authority and shall submit an annual report to the Central Government in this behalf.

Constitution
of Regulatory
Authority and
procedure to
regulate Tiger
Conservation
Authority.

(2) The Regulatory Authority shall consist of,—

(a) the Secretary, Union Minister of Environment, Forest and Climate Change—Chairperson;

(b) ten Chief Wild Life Wardens—member;

(c) five experts or professionals having prescribed qualifications and experience in conservation of wild life and welfare of people living in tiger reserve who are not already appointed members of the National Tiger Conservation Authority—member; and

(d) one member from the National Green Tribunal, member,

to be appointed by the Central Government in such manner as may be prescribed:

Provided that every member appointed under clauses (b), (c) and (d) shall be appointed for annual non-consecutive terms.

(3) The Regulatory Authority shall address any grievance or dispute filed by a State-level or local body or Authority related to the administration of Tiger Reserves, the conservation of the tiger and the performance of the National Tiger Conservation Authority.

(4) Every grievance or dispute filed under sub-section (2) shall be addressed on a majority of the votes of the member of the Regulatory Authority present and voting.

(5) Every member of the Regulatory Authority shall be empowered to highlight a specific issue in the functioning of the National Tiger Conservation Authority and the Tiger Conservation Authority Fund:

Provided that no such issue shall be tabled and resolved unless counter filed by a majority vote from the members of the Regulatory Authority:

Provided further that in the case of a grievance against the decisions of the National Tiger Conservation Authority, the Regulation Authority shall act as the harmonising, resolution and deciding forum.

(6) The Central Government shall remove a member referred to in clause (b) of sub-section (1) of section 38PA, from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;

(c) is of unsound mind and stands so declared by a competent court;

(d) refuses to act or becomes incapable of acting;

(e) is, without, obtaining leave of absence from the Regulatory Authority, absent from three consecutive meetings of the said Authority; or

(f) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest:

Provided that no member shall be removed from office under this sub-section unless he has been given a reasonable opportunity of being heard in the matter.

(7) Any vacancy in the office of a member shall be filled by fresh appointment and such member shall continue for the remainder of the term of the member in whose place he is appointed.

(8) The salary and allowances payable to and other terms and conditions of appointment of the members of the Regulatory Authority shall be such as may be prescribed.

5. In section 38U of the principal Act, after sub-section (2), the following sub-section shall be added, namely:—

Amendment of section 38U.

"(3) Without prejudice to the provisions contained in sub-section (1), the Steering committee shall undertake the estimation of population of tiger and its natural prey species, status of habitats, disease surveillance, mortality survey, patrolling, reports on untoward happenings and such other management aspects as it may deem fit including future plan conservation, and report to the Tiger Conservation Authority for the preparation of future conservation plan."

6. In section 38X of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 38X.

"(3) Without prejudice to the provisions contained in sub-section (1), the Tiger Conservation Foundation shall ensure the implementation of eco-tourism and tourism policy in accordance with the normative standards for eco-tourism activities, tourism activities and guidelines laid down under sub-clause (c) of sub-section (1) of section 38-O and section 38XA."

Establishment of Tiger Conservation Foundation and its functions.

7. After section 38X of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 38XA and 38XB.

"38XA. (1) The State Government shall formulate a comprehensive policy to promote and incentivize tourism and eco-tourism over conventional wildlife tourism under its jurisdiction.

Formulation of policy to promote and incentivize tourism and eco-tourism.

(2) While formulating the policy under sub-section (1), the State Government shall take into account,—

- (a) maintenance of the integrity of the forest reserve;
- (b) participation of the local communities in eco-tourism;
- (c) rights and benefit sharing with the local communities;
- (d) sustainable use of indigenous material;
- (e) education, training and capacity building in conservation,—eco-tourism and ancillary techniques;
- (f) adequate assessment mechanism to assess the impact of eco-tourism activities on the wild life reserve and local communities; and
- (g) developmental activities in tune with the ecological integrity of the forest reserve.

(3) No new infrastructure shall be set up within the core zone of the Wild Life Reserves, except for the purposes of the principal Act or with the special permission of the authority(s) empowered thereunder in this regard.

(4) The State Government shall constitute a Community Development Fund from the revenue received from the visitor registration in each wild life reserve.

(5) The Community Development Fund shall be utilized for the development of local community livelihood in that region.

Explanation.— For the purposes of this sub-section, the term 'Local' shall comprise of the field staff and the residents of and in close vicinity of the forest reserve area.

(6) The State Government shall levy a minimal conservation fees from the Wild Life tourism industry taking into consideration capacity, economic segment or such basis as it may deem fit to fund eco-tourism development and community upliftment projects the forest reservation.

(7) Notwithstanding anything contained in any other law for the time being in force, fifty per cent. of the total number of persons to be engaged in infrastructural development shall be reserved in favour of local persons in such manner as may be prescribed:

Provided that the reservation in favour of local persons may be increased on unavailability of requisite work force in the local community.

(8) The Tiger Conservation Foundation shall, in consultation with the Local Advisory Committee, direct the officer-in-charge of every Tiger Reserve to prepare a comprehensive tourism plan in pursuance of Tiger Conservation Plan and the national Tiger Conservation Authority.

(9) The Tourism plan under sub-section (7) shall be prepared in tune with the State Tourism and Eco-Tourism strategy and submitted to the Tiger Conservation Foundation and Steering Committee for approval.

(10) The tourism plan prepared under sub-section (7) shall take into account:—

(a) identification and monitoring of ecologically sensitive areas in and around forest reserves to protect the ecological integrity;

(b) assessment of capacity of Tiger Reserve at three levels namely physical, real and permissible in terms of visitors, vehicles, residential as well as commercial infrastructure;

(c) fixation of ceiling on the number of visitors to a Forest Reserve at any point in time and annually based on the capacity assessment;

(d) designation of area for eco-tourism development;

(e) limiting tourism activities to the delineated tourism zone;

(f) registration of tourism vehicles with the Forest Reserve management;

(g) mandating the presence of authorised guide in every vehicle;

(h) local community participation to generate a mutually beneficial relationship between Wild Life conservation and Local community development;

(i) development of codes for standardization of private sector tourism industry in the vicinity of the forest reserves;

(j) mechanism for the assessment of impact of tourism on Wild Life;

(k) development of appropriate infrastructure development codes for the forest reserves;

(l) preparation of an effective list of restrictions for the visitors;

and

(m) inculcation of subsidized registration for educational, survey and academic research purposes.

Jurisdiction
over sacred
and religious
sites located
within the
reserve areas.

38XB. (1) The religious sites located within the forest reserve area shall be subject to the provisions of the Forest Conservation Act, 1980, the principal Act and the Environment Protection Act, 1986.

69 of 1980.
29 of 1986.

(2) The Tiger Conservation Foundation established under section 38X shall be responsible for periodical review of developments of religious sites located within the forest reserve area.

(3) The religious sites located within the forest reserve area shall comply with the rules and regulations prescribed for the tourism industry with regard to building codes, pollution control, alternate energy usage, conservation fees and free passage of Wild Life.

Explanation.— The conservation fee shall be uniform across all religions in the entire Indian territory.

(4) Any set up, temporary or permanent, for the purpose of stay shall be restricted to the dates nominated for the appropriate authorities in this regard, with prior approval of the respective forest reserve officer-in-charge.”.

STATEMENT OF OBJECTS AND REASONS

India is home to seventy per cent. of the world's total tiger population. Despite the consistent increase in funding for conservation and persistent Government efforts, the continuous decline in the tiger population has been relentless. Thus, a sustainable solution to ensure the protection of tigers needs to emerge from within an inclusive framework.

The current model of tiger conservation is governed by the Wild Life (Protection) Amendment Act, 2006, which led to the constitution of the National Tiger Conservation Authority and Project Tiger. Eleven years hence, the statistics prove that this system has not only failed to protect tigers, but also failed to prevent a loss in their habitat.

The foundation of any conservation strategy is the pattern of ownership that it advocates. A careful and calculated transition from State ownership to a public-private ownership, along with a strong emphasis on community control, should be considered. This transition can be facilitated by putting into effect new eco-tourism rules that will simultaneously increase the State Governments' revenue for conservation and reduce their dependence on central subsidies.

Initializing the processes of decentralization, privatization and an inclusion of local communities can create the framework necessary for sustainable and long-term conservation of India's national animal. It is the duty of the Government to build deeper relationships with respective State Governments, the local communities and most importantly, the conservation bureaucracy and wildlife research community. This amendment has been proposed to address the above-mentioned issues.

Hence this Bill.

NEW DELHI;
June 29, 2017.

KALIKESH NARAYAN SINGH DEO

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to constitute a Local Advisory Committee for each sanctuary. Clause 4 provides that the Central Government shall constitute a Regulatory Authority to oversee the functioning of the National Tiger Conservation Authority. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees hundred crore would involve per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees two hundred crore is also likely to be involves.

BILL NO. 234 OF 2017

A Bill further to amend the Protection of Children from Sexual Offences Act, 2012.

BE is enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Protection of Children from Sexual Offences (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 2.

2. In section 2 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the principal Acts,—

32 of 2012.

(a) after clause (c), the following clause shall be inserted, namely:—

'(ca) "Centre" means the One Stop Crisis Centre set up under section 38B;'

(b) after clause (d), the following clause shall be inserted, namely:—

'(da) "child victim" means the child against whom the offence has been committed under this Act;'; and

(c) after clause (e), the following clause shall be inserted, namely:—

'(ea) "Fund" means the Sexually Abused Children Rehabilitation and Welfare Fund constituted under section 38F;'

3. In section 3 of the principal Act, after clause (d), the following provisos shall be inserted, namely:—

Amendment
of section 3.

“Provided that the consensual sexual intercourse or any sexual act with a child in the age group of sixteen to eighteen years shall not constitute an offence:

Provided further that the consensual sexual intercourse or any sexual act which causes or likely to cause any harm to the child giving the consent shall constitute an offence.”

4. In section 19 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

Amendment
of section 19.

"(5A) where the accused is a relative of the child either through blood or adoption or marriage or guardianship or in foster care or having a family relationship with a parent of the child or who is living in the same or shared household with the child against whom the offence has been committed, then, the Special Juvenile Police Unit or local police shall, after recording the reasons in writing, make immediate arrangement to admit the child into a shelter home or a child care institution registered under section 41 of the Juvenile Justice (Care and Protection of Children) Act, 2015 so that at no point of time the child comes in contact in any way with the accused.".

2 of 2016.

5. After Chapter VIII of the Principal Act, the following Chapter and sections thereunder shall be inserted, namely:—

Insertion of
new chapter
VIII A.

"CHAPTER VIII A

SUPPORT, REHABILITATION AND SOCIAL INTEGRATION

38A. The Central Government and every State Government shall take such measures as it thinks fit and appropriate to ensure and undertake the process of rehabilitation and social integration of the child victim.

Central
Government
and State
Government
to take
measures to
ensure and
undertake the
process of
rehabilitation
and social
integration of
the child
victim.

38B. (1) The State Government shall, by notification in the Official Gazette, set up and maintain in every district, one or more Centre to be known as the One Stop Crisis Centre as may be required, to facilitate the child victim to deal with the trauma of abuse and assist him in processes involved with appearing as a witness before the Special Court or any authority handling his case.

Setting up of
One Stop
Crisis Centre.

(2) Every Centre set up under sub-section (1), shall be registered within a period of six months from the date of commencement of this Act in such manner as may be prescribed.

(3) The Centre shall consist of—

(a) one Centre Co-ordinator with prescribed qualifications and experience matters concerning children;

(b) four case-workers who are experts or professionals having prescribed qualifications and experience on matters concerning child sexual abuse;

(c) two legal officers with prescribed qualifications and experience on laws related to children;

(d) one counsellor with prescribed qualifications and experience of working with children who are victims of sexual abuse;

(e) a panel of doctors, forensic experts, pediatricians, psychologists, gynecologists and other professional service providers who may be called on to provide necessary services as per the requirements in each case;

(f) two members of the State Commissions for Protection of Child Rights constituted under section 17 of the Commission for Protection of Child Rights Act, 2005,

4 of 2006.

to be appointed by the State Government in such manner as may be prescribed:

Provided that at least one of the case-worker appointed under clause (b) shall be a woman.

(4) The salaries and allowances payable to, and other terms and conditions of service of persons appointed under clause (a) to (f) shall be such as may be prescribed.

Functions of
the Centre.

38C. The Centre shall—

(a) provide basic requirements such as food, clothing, shelter and medical attention, including counselling specific to the need of the child victim;

(b) provide assistance to every child victim at the time of medical examination including escort of the child to the place of medical examination;

(c) provide assistance for obtaining the proof of identity, wherever required;

(d) facilitate proper investigations into the case and provide immediate special and support services to the child victim;

(e) provide legal aid wherever required;

(f) undertake case management including preparation and follow up of individual child;

(g) attend hearing in court in the best interest of the child;

(h) provide referral services for education, vocational training, treatment of diseases where required;

(i) provide recreational activities including sports and cultural activities; and

(j) undertake such other measures as may be necessary for the rehabilitation and welfare of the child victim under this Act.

Centre to
submit
information
to State
Government.

38D. (1) The Centre shall submit monthly information regarding children availing the services of the Centre under this Act to the State Government in such manner as may be prescribed.

(2) The State Government shall, after taking into account the number of children availing the services of the Centre, provide monthly funding to a Centre to ensure well-being of the children in such manner as may be prescribed.

Government to
monitor the
functioning of
the Centre.

38E. The Central Government and State Government shall independently evaluate and monitor the functioning of the Centre, at such period and through such persons or institutions as may be prescribed by that Government.

Constitution of
Sexually Abused
Children
Rehabilitation
and Welfare
Fund.

38F. (1) The Central Government shall, as soon as may be, by notification in the official Gazette, constitute a Fund to be known as the Sexually Abused Children Rehabilitation and Welfare Fund for carrying out the purposes of this Act.

(2) The Fund shall be credited money received from body corporate and financial institutions of both domestic and international, individuals and bodies donations.

(3) All money received in the Fund shall be utilized for carrying out the purposes of this Act in such manner as may be prescribed.

38G. The Central Government shall, after due appropriation made by Parliament by law in this behalf, from time to time, provide adequate funds to the State Governments for carrying out the purposes of this Act.”

Central Government to provide funds to the State Government.

5. After section 41 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 41A.

“41A. Where the accused is a parent or a guardian of the child, the provisions of sections 3 to 13 (both inclusive) shall not apply in case of medical examination or medical treatment of a child, when such medical examination or medical treatment is undertaken in the best interest of the child without the consent from his parents or guardian:

Provisions of sections 3 to 13 (both inclusive) not to apply in case of medical examination or medical treatment of a child undertaken in the best interest of the child.

Provided that medical examination or medical treatment of a child victim shall not apply when the consent is obtained from the authority handling the case.”.

6. In section 43 of the principal Act, after clause (b), the following clauses shall be inserted, namely:—

Amendment of section 43.

“(c) sensitisation of all stakeholders including police officers at all levels, Magistrate, Child Welfare Committees, Special Prosecutors and Juvenile Justice Board to make procedures child friendly and provide periodic training on method of handling child abuse related case; and

(d) conduct periodic child sensitisation programmes and orientation on laws related to children for those involved in healing rehabilitation and other assistance programmes for children.”.

STATEMENT OF OBJECTS AND REASONS

India is home to the largest child population in the world. Almost forty-two per cent. of the total population of the country is under eighteen years of age. Needless to say, the health and security of the country's children is an integral to any vision for its progress and development.

The Ministry of Women and Child Development enacted the Protection of Children from Sexual Offences Act, 2012 to protect our children from offences of child sexual assault and to provide a child-friendly system for trial of the offences. Despite the stringent legal provisions, India continues to rank among the top five countries with the highest rate of child sexual abuse.

Over the past few years, various lacunae in the implementation of this Act has become apparent. Law conviction rate (meagerly between 7-16 per cent.) and increasing pendency of cases continue to be a hindrance in providing justice to victims of child sexual abuse. This Bill is an effort to address the weaknesses of the present legislative framework.

A common observation is that the judicial system is overburdened with cases of consensual sex. Any sexual activity with children under eighteen years is considered to be an offence as the law does not recognise consent. It presents a problem as young boys and girls in consensual relationships are often trapped under the charges of sexual assault. Subsequently, victims turn hostile as they are forced in to the lawful case due to family pressure leading to acquittals and false cases. In the light of these circumstances, there is a need to look at consensual relationships from a different perspective and decriminalise them depending on whether there was a criminal intent.

Statistics released by the National Crime Records Bureau 2016 reveal that 94.8 per cent. of rape cases saw children being raped by someone they knew including neighbours, direct family members and relatives. The abusers often use their position of power, age difference, intellectual or physical development, relationship of authority over child or child's dependency over them to their advantage. A recent study of High Court judgments revealed that a high proportion of victims turned hostile when the perpetrator was an acquaintance. To bring the conviction rate higher and punish the perpetrators, there is an overwhelming need to separate the children from the family in cases where the alleged perpetrator is a family member to avoid them from turning hostile.

Secondly, if the doctors conduct medical examination or treatment of the child victim against consent of the parents, they can be prosecuted. If the parent or father is an abuser, he may refuse to provide such consent. There is need to take into consideration cases of incest, where the doctors cannot be criminally charged for acting in the best interest of the child and performing the examination, without the consent of the parents.

Lack of training and sensitisation on child friendly procedure often creates traumatic episodes for children. The need is also to provide an exhaustive list of stakeholders to be trained to implement child friendly mechanisms during the course of trial to address the needs of children.

Sexual abuse can scar the psyche of the affected child for life and lead to suicidal tendencies. The current law lacks exclusive provisions for after-care, medical support and social integration of the child which further exposes him to re-victimisation in the society. The need of the hour is direct the State Governments to establish and maintain one stop crisis centres in every district to provide integrated services such as police assistance, legal aid, medical and counselling for serving the victims better.

We need to make our nation safe for children, better policing, increasing accountability, bolstering mechanisms for prevention, and ensuring swifter prosecution should be the approach of stakeholders involved.

Hence this Bill.

NEW DELHI;
November 29, 2017.

KALIKESH NARAYAN SINGH DEO

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides that Central Government shall take such measures as it thinks fit and appropriate to ensure and undertake the process of rehabilitation and social integration of the child victim. It also provides for setting up of One Stop Crisis Centre by the State Government to facilitate the child victim to deal with the trauma of abuse. It also provides for appointment of experts and other persons to the Centre. It further provides for the establishment of the Sexually Abused Rehabilitation and Welfare Fund by the Central Government. The expenditure relating to States shall be borne from the Consolidated Fund of the State Government concerned. The Bill, therefore, if enacted, will involve recurring expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty crore per annum would involve from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees ten crore is also likely to be involved.

BILL NO. 125 OF 2017

A Bill further to amend the Rights of Persons with Disabilities Act, 2016.

BE it enacted by the Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Rights of Persons with Disabilities (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of the Schedule. **2.** In the Schedule to the Rights of Persons with Disabilities Act, 2016 after para 4, the following para shall be inserted, namely:— 49 of 2016.

"4A. *Epidermolysis bullosa* that is, a group of disorders in which congenital malformation caused by genetic conditions causes the skin to be very fragile and to blister easily.

Forms of *epidermolysis* shall include:

- (i) *Epidermolysis bullosa dystrophica*;
- (ii) *Epidermolysis bullosa simplex*;
- (iii) *Epidermolysis bullosa letalis*."

STATEMENT OF OBJECTS AND REASONS

Clause (zc) of Section 2 defines specified disability in term of disabilities mentioned in the Schedule to the Rights of Persons with Disabilities Act, 2016. It has been observed that many children in India are suffering from various types of *epidermolysis bullosa* which is a congenital malformation that cause the skin to be very fragile and to blister easily. Blisters and skin erosions form in response to minor injury or friction thereby requiring rigorous skin care. The 10th revision of the International Statistical Classification of Diseases and Related Health Problems classifies epidermolysis bullosa into three types namely *epidermolysis bullosa dystrophica*, *epidermolysis bullosa simplex* and *epidermolysis bullosa letalis*.

Depending on the form of condition, symptoms include alopecia (hair loss), blisters around the eyes and nose, blisters in or around the mouth and throat causing feeding problems or swallowing difficulty, blisters on the skin as a result of minor injury or temperature change, blistering that is present at birth, dental problems such as tooth decay, hoarse cry, cough or other breathing problems and nail loss or deformed nails.

Children in India afflicted with *epidermolysis bullosa* have been subjected to prejudice and various forms of discrimination. Moreover, they are deprived of educational opportunities, thereby violating the United Nations Convention on the Rights of Persons with Disabilities. The Bill seeks to safeguard dignity and grant equality of opportunity to all those children who are suffering from various strains of *epidermolysis bullosa*.

Hence this Bill.

NEW DELHI;
July 3, 2017.

POONAM MAHAJAN

BILL NO. 150 OF 2017

A Bill further to amend the Guardians and Wards Act, 1890.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Guardians and Wards (Amendment) Act, 2017.

(2) It shall come into force as on such date as the Central Government may, by notification in the Official Gazette, appoint.

8 of 1890.

2. After Section 18 of the Guardians and Wards Act, 1890, the following section shall be inserted, namely:—

Insertion of new section 18A.

32 of 2012.

"18A. (1) Notwithstanding anything contained in any law for the time being in force, the Court shall not grant any remedy under sections 7, 12 and 25 to any person who is accused of committing an offence punishable under the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the POCSO Act, 2012) against the minor or ward in respect of whom such remedy is claimed, unless the same is proved to be in the best interests of such minor or ward, as the case may be.

Prohibition of visitation and custodial rights of an offending guardian.

Explanation.—For the purpose of sub-section (1), it shall be sufficient if the person is named as the accused either in a complaint filed with the police or if such an accusation is made against such person in any of the pleadings taken before the Court.

(2) Where an accusation under sub-section (1) is made against any guardian in any proceeding before the Court, then notwithstanding any criminal proceedings initiated against such guardian, the Court shall determine the best interests of the minor or ward after conducting a detailed inquiry.

32 of 2012.

(3) During inquiry under sub-section (2), the court shall forward a copy of the pleadings setting out such accusation to the Special Juvenile Police Unit or the local police in whose jurisdiction the minor or the ward who is the alleged victim of such offence resides and the police authority shall, on receiving the said copy, act in accordance with sections 19 and 21 of the POSCO Act, 2012.

32 of 2012.

(4) The Court shall, pending the inquiry under sub-section (2), draw a rebuttable presumption that granting any custody or visitation or any kind of face to face interaction or access to the guardian accused of committing any offence punishable under the POSCO Act, 2012 in respect of the minor or a ward, as the case may be, shall not be in the best interest of such minor or a ward.

(5) The Court shall direct parties to the dispute to lead evidence in support of their respective stand for or against the grant of measures provided under sections 7, 12 or 25.

5 of 1908.

(6) In case the minor is being treated by a child psychiatrist or a child psychologist, the Court shall appoint such child psychiatrist or child psychologist as a welfare expert under Order XXXIIA, Rule 4 of the Code of Civil Procedure, 1908:

5 of 1908.

Provided that in case the child is not being treated by such a psychiatrist or the psychologist, then the Court shall seek the assistance of the Child Welfare Committee or the State Commission for Protection of Child Rights, who, either by themselves or through any person so appointed by them, shall be deemed to be a welfare expert under Order XXXIIA, Rule 4 of the Code of Civil Procedure, 1908.

32 of 2012.

(7) Every welfare expert appointed under sub-section (6) shall examine the minor who is the victim of offences punishable under the POCSO Act, 2012 and a report thereof to the Court.

(8) The Court shall permit the parties to the dispute to examine and cross examine such welfare experts and lead any other evidence which they deem fit.

(9) The Court shall upon conclusion of evidence in respect of the remedy claimed under section 12, hear both parties and pass suitable orders:

32 of 2012.

Provided that in case the Court decides to grant remedy under section 12 to the guardian accused of the offences punishable under the POCSO Act, 2012, then it shall provide detailed reasoning as to why the presumption under sub-section (4) above is rebutted.

(10) In case the Court comes to the conclusion that the guardian claiming remedy under section 12 has committed the offence punishable under the POCSO Act, 2012; then the inquiry shall be deemed as an inquiry under section 18 of the Protection of Women from Domestic Violence Act, 2005 and the Court shall treat such minor as a victim(s) of domestic violence under section 3(c) of the Protection of Women from Domestic Violence Act, 2005 and further direct that the offending guardian shall be prohibited from coming in face to face contact or any other kind of contact with the minor who is the victim of such offence punishable under the POCSO Act, 2012.

32 of 2012.

43 of 2005.

43 of 2005.

32 of 2012.

Explanation.—

(1) The burden of proof in the inquiry set forth above shall be the preponderance of probabilities and not beyond reasonable doubt;

(2) If the parent accused of child sexual abuse has been acquitted by the criminal court, the same shall be ignored by the Court and it shall conduct its own independent inquiry in the manner set forth above without being influenced by the order of acquittal by the criminal court;

(3) Mere acquittal by the criminal court shall not exempt the offending parent from facing the inquiry set forth above."

STATEMENT OF OBJECTS AND REASONS

The Union Ministry of Women and Child Development in its study on child abuse conducted in 2007 stated that out of 53% of children reporting child sex abuse, 50% had suffered intra familial abuse.

India is obligated to evolve adequate measures to protect child sex abuse victims from their offending parents which aligns with the right against discrimination and the right to health and dignity contained in Articles 15 and 21 of the Constitution respectively. Coupled with society's denial of incest, an offending father despite the said prohibition accompanying bail, can influence the child through lawfully awarded interim visitation rights thereby stalling prosecution efforts against him. No explicit legislative prohibition exists against the granting of custody or visitation rights to fathers committing a sexual offence pending conviction in a criminal trial. Experts caution against the granting of monitored visitation to offending parents because their very presence may trigger in the child traumatic memories of abuse, feelings of being unsupported and lead to recanting of allegations against the offender thereby resulting in compromising criminal trial against the parent.

The rationale behind Government preparing guidelines from custodial and visitation claims by offending fathers is aimed towards ensuring that the child should not be forced to meet him. The child's relationship with mother should be strengthened by recognising her as the sole guardian. Unless absolutely necessary, the Court should not issue orders repeatedly for mediation, custody or visitation in the families involved. Moreover, orders granting visiting rights to an offending father should be issued only after consultations with mental health experts clearly find such visitation to be in the child's best interests. Finally, acquittal in a criminal trial should not automatically absolve the father of liability. Either the Family Court or a specially constituted Court should initiate an independent inquiry using the standard of preponderance of probability to be certain of innocence.

Hence this Bill.

NEW DELHI;
July 03, 2017.

POONAM MAHAJAN

BILL NO. 175 OF 2017

*A Bill further to amend the Right of Children to Free and Compulsory
Education Act, 2009.*

BE it enacted by the Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

35 of 2009. **2.** In section 21 of the Right of Children to Free and Compulsory Education Act, 2009,— Amendment of section 21.

"(a) in sub-section (1), for the third proviso, the following proviso shall be substituted, namely:—

"Provided also that two-thirds of Members of such Committee shall be women.";

(b) in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

"(ca) undertake measures including assessing performance of the teachers and taking suitable action to ensure imparting of good quality education conforming to the standards and norms specified in the Schedule.".

STATEMENT OF OBJECTS AND REASONS

The School Management Committee is a critical accountability structure in the Right of Children to Free and Compulsory Education Act, 2009. However, this Committee currently lacks sufficient ability to hold schools and especially teachers, accountable for the full and proper education of children. The need is to provide sufficient representation to women particularly to mothers of students in these Committees and to incentivise parents to enroll their wards in Government schools with a view to perform their assigned role more efficiently in managing these schools.

In its current structure, the School Management Committee does not have the power or authority to ensure accountability of teachers. Parents are up against teachers, and their powerful unions, and their only hope is very weak School Management Committee structures that are supposed to hold these teachers accountable. Moreover, with only the poorest of the poor sending their children to Government schools and teachers enjoying the benefits of Seventh Pay Commission, the parents most often find themselves at disadvantageous position in keeping teachers accountable. Therefore, parents have hardly any voice to play their due role in compelling these schools to impart quality education.

The incentives designed by the Government for the parents who are sending their children to these schools are not meeting the designed objectives of the principal Act. Very limited access to what is taught in the classroom, absence of English as medium of instruction, inability to track assessments and their child's progress, lack of co-scholastic activities, further dis-incentivises parents to engage with the Government school system.

Mothers, especially those who have been deprived of proper educational attainment, dedicated towards educational upliftment of their children can play a very positive role towards ensuring imparting of quality education. Their active participation in the School Management Committee will ensure accountability of schools as well as to air their genuine concerns regarding academic progress of the students and their overall welfare in a proper manner.

Hence this Bill.

NEW DELHI;
July 5, 2017.

POONAM MAHAJAN

BILL NO. 173 OF 2017

A Bill further to amend the Protection of Children from Sexual Offences Act, 2012.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Protection of Children from Sexual Offences (Amendment) Act, 2017. Short title and commencement.

(2) It shall come into force as on such date as the Central Government may, by notification in the Official Gazette, appoint.

32 of 2012.

2. After section 38 of the Protection of Children from Sexual Offences Act, 2012, the following section shall be inserted, namely:— Insertion of new section 38A.

"38A. (1) In case of any person being acquitted by the Special Court, the Court shall set forth detailed reasoning as to the following: — Acquittal by Special Court.

(a) whether the accused has been acquitted because of the reason of innocence or because of the prosecution having failed to meet the burden of proof to prove the guilt; or

(b) in case of the prosecution having failed to meet the burden of proof to prove the guilt, the Court shall identify and name all the persons responsible for such lapses including the public prosecutor or the police officers involved, if any.

(2) In case the accused is acquitted by reason of the prosecution having failed to meet the burden of proof and such accused person is also related to the child, it is clarified that such acquittal shall not automatically entitle the accused to—

(i) claim custody or visitation rights to such child; or

(ii) have any kind of access to the child, except through an order of a family court, which shall hold an independent inquiry to determine the guilt of the accused through preponderance of probabilities."

STATEMENT OF OBJECTS AND REASONS

The Union Ministry of Women and Child Development in its study on child abuse conducted in 2007 stated that out of fifty three per cent. of children reporting child sex abuse, fifty per cent. had suffered intra-familial abuse.

India is obligated to evolve adequate measures to protect child sex abuse victims from their offending parents which aligns with the right against discrimination and the right to health and dignity contained in articles 15 and 21 of the Constitution, respectively. Coupled with society's denial of incest, an offending father despite the said prohibition accompanying bail, can influence the child through lawfully awarded interim visitation rights thereby stalling prosecution efforts against him. No explicit legislative prohibition exists against the granting of custody or visitation rights to fathers committing a sexual offence pending conviction in a criminal trial. Experts caution against the granting of monitored visitation to offending parents because their very presence may trigger in the child traumatic memories of abuse, feelings of being unsupported and lead to recanting of allegations against the offender thereby resulting in compromising criminal trial against the parent.

The rationale behind Government preparing guidelines from custodial and visitation claims by offending fathers is aimed at ensuring that the child should not be forced to meet him. The child's relationship with mother should be strengthened by recognising her as the sole guardian. Unless absolutely necessary, the court should not issue orders repeatedly for mediation, custody or visitation in the families involved. Moreover, orders granting visiting rights to an offending father should be issued only after consultations with mental health experts clearly find such visitation to be in the child's best interests. Finally, acquittal in a criminal trial should not automatically absolve the father of liability. Either the family court or the special court should initiate an independent inquiry using the standard of preponderance of probabilities to be certain of innocence.

Hence, this Bill.

NEW DELHI;
July 25, 2017.

POONAM MAHAJAN

BILL NO. 45 OF 2018

A Bill to provide skill training to individuals post retirement, including and not limited to ex-servicemen to enable them to learn new skills and gain employability and also to include skill education as compulsory part of school and college curriculum and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called The Skill (Training and Education) Act, 2018.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) “Ex-servicemen” means an individual who has been a member of the armed forces;

(c) “internship module” means a position of a student or trainee who works in an organisation, sometimes without pay, in order to gain work experience or satisfy requirements for a qualification;

(d) “job fair” means an event where employers, recruiters and schools give information to potential employees;

(e) “prescribed” means prescribed by rules made under this Act; and

(f) “sustenance” means minimum wage required for livelihood.

3. (1) The appropriate Government shall, by notification in the Official Gazette, set up training centres in each State and Union territory to impart skill training to individuals post retirement to help them gain employment for their sustenance.

Appropriate Government to set up skill training centres.

(2) The Central Government and the State Governments shall contribute for the funding of the training centres in such proportion as may be prescribed.

(3) The appropriate Government shall provide necessary training options to individuals based on the demand of skilled workforce.

4. Every training centre set up under section 3 shall provide—

Training centres to provide for accommodation, meal and equipments.

(a) accommodation facilities for all trainees;

(b) nutritious meal; and

(c) equipments required for skill training.

5. (1) The appropriate Government shall, after the completion of training, ensure job availability to the skilled individuals;

Appropriate Government to ensure job availability to skilled individuals.

(2) For the purpose of sub-section (1), the appropriate Government shall—

(a) organise job fairs in each State;

(b) introduce internship module; and

(c) conduct assessment and counselling sessions for trainees.

6. The appropriate Government shall reserve—

Reservation in favour of exservicemen.

(a) twenty per cent of seats in each training centre; and

(b) five per cent of the jobs under the State,

in favour of ex-servicemen.

7. (1) The appropriate Government shall make skill education a compulsory part of the school and college curriculum to impart basic skill training to students.

Appropriate Government to provide compulsory skill education in schools and colleges.

(2) The appropriate Government shall provide options for skill training to be provided to the students, who can choose to learn any one of the particular set of skills among the given options.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force relating to skill education and training, or in any instrument having effect by virtue of any law other than this Act.

Overriding effect of the Act.

Act not in
derogation of
other laws.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to
make rules.

10. (1) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

India has a huge labour force, second only to China. Labour availability is expected to grow further as India is predicted to be the youngest country in the world with a median age of twenty-nine by 2020. However the Labour Bureau Report 2014 had pegged the skilled workforce of India at a dismal two per cent.

The Government has taken several initiatives in the last few years under the Skill India Programme to train individuals in various industry relevant skills. However, most of these programmes target the freshly unemployed citizens or college dropouts, but ignores the approximately twenty per cent of the population in the age group of 40-60 years old who are usually unemployed by this age having retired from their previous employment. They have the potential to work and contribute in a significant way but they lag behind due to lack of skill required for any new job opportunity. If trained, this population can contribute in pushing the skilled workforce of India significantly.

The most important change however needs to happen on a cultural level. Skill training should be viewed as a complimentary part of mainstream education, rather than being regarded as an inferior alternative. Therefore, the curriculum and education system offered also needs to be overhauled, and imparting skill training to students in schools and colleges as a compulsory subject be incorporated.

Although every citizen is faced with the problem of unemployment at his own level and has to confront with the stress of a fast changing society, the ex- servicemen feel it very painfully for a variety of reasons. Their problems become highly peculiar and specialised as they are made to leave a job at an age when the social responsibilities of an ex-serviceman are at its peak. He is out of job when his children are growing or in school. His income, benefits and privileges are reduced to bare minimum at a time when he requires them the most. Lack of entrepreneurial skills and unfamiliarity with the business/corporate world makes it difficult for him to get a second job to support his family.

Gainful employability through skilled trades needs to be embraced by the wider Indian public given the respectability and opportunity it deserves, for true change to be brought about.

Hence this Bill.

NEW DELHI;
January 15, 2018.

SUPRIYA SULE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of training centres in each State to impart skill training to individuals. Clause 4 provides for free hostel, meal and equipment facilities for individuals in the training centres. Clause 5 provides for organising job fairs, internship modules, and assessment and counselling sessions. Clause 6 provides for reservation of ex-servicemen in the skill training centres and in jobs under the State. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crore would be involved as recurring expenditure per annum.

A non-recurring expenditure of rupees one thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 76 OF 2018

A Bill to create awareness among women and adolescent girls regarding menstrual hygiene, safe usage and disposal of sanitary napkins, easy access of affordable sanitary napkins to women in villages and remote areas and promotion of use of biodegradable napkins and for matters connected therewith.

BE it enacted in the Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Menstrual Hygiene Management (Awareness and Affordable Sanitary Napkins Distribution) Act, 2018.

Short title,
extent and
commencement.

(2) It shall extend to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "adolescent" means a young person in the process of developing from child into an adult;

(b) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(c) "biodegradable" means a substance or object capable of being decomposed by bacteria or other living organisms and thereby avoiding pollution;

(d) "counselling" means the provision of professional assistance and guidance in resolving personal or psychological problems;

(e) "educational institution" means a place where persons of different ages gain education, including pre-schools, childcare, primary or elementary schools, secondary or high schools and universities;

(f) "event" includes seminars, workshops and awareness campaigns;

(g) "menstrual hygiene management" means women and adolescent girls using a clean menstrual management material to absorb or collect blood that may be changed in privacy as often as necessary for the duration of the menstruation period, using soap and water for washing the body as required, and having access to facilities to dispose of used menstrual management materials;

(h) "non-biodegradable" means the substance or object not capable of being broken down by the action of living organisms;

(i) "notification" means notification as published by the Official Gazette;

(j) "prescribed" means as prescribed by the rules under this Act;

(k) "sanitary napkin" means pad of absorbent material used by women during menstruation period; and

(l) "synthetic napkin" means sanitary napkins made by chemical synthesis, especially to imitate a natural product.

Creating awareness about menstrual hygiene management.

3. The appropriate Government shall take such steps, as may be necessary, for creating awareness among the females and adolescent girls about menstrual hygiene management through the means of mass media and by organising such events as it deem fit in classes, seminars and counselling sessions in every Government and private educational institution in the villages and remote areas regarding hygienic menstrual practices to be followed.

Availability of sanitary napkins in villages at affordable price.

4. The appropriate Government shall make available biodegradable sanitary napkins in the villages at affordable price in schools and college premises designated by the appropriate Government.

Sale of sanitary napkins in villages and remote areas.

5. The appropriate Government shall provide for sale of sanitary napkins in all retailers outlet in villages and remote areas at affordable rates for easy access.

Manufacturing and usage of biodegradable sanitary napkin.

6. The appropriate Government shall promote manufacturing and usage of biodegradable sanitary napkins to counter the effect of non-biodegradable waste generated by synthetic napkins.

Construction of toilets for female in educational institutions.

7. The appropriate Government shall ensure construction and availability of toilets for female in every Government and private educational institutions.

Central Government to issue direction to the State Government.

8. The Central Government shall give directions to the State Government regarding safe disposal of sanitary napkins to avoid their littering in public and residential places and for the health and safety of public in general.

9. The Central Government shall, after due appropriation made by the Parliament by law in this behalf, provide adequate funds, from time to time, to the State Governments for the effective implementation of the provisions of this Act.

Central Government to provide adequate fund.

10. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Act not in derogation of other law.

11. (1) The appropriate Governments may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament or the Legislative Assembly and the Legislative Council, as the case may be, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both House agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

Only in seven of India's thirty-six States and Union territories did ninety per cent. or more women in the fifteen to twenty-five age group use hygienic protection during menstruation, according to the latest national health data. Not even fifty per cent. women used clean methods of dealing with menstrual hygiene in eight States and Union territories according to the National Family Health Survey-4 (NFHS), released in 2015-16. This is the dark reality behind all the talks of women empowerment. Even now, women are considered "impure" during their period, subjected to social, religious and cultural restrictions. This shame around menstruation also forces girls to opt out of school once they reach puberty, impeding the growth of female literacy in India. In rural India, twenty-three per cent. of girls have listed menstruation as the chief reason for dropping out of school.

Reproductive Tract Infections (RTIs) are extremely common among women that they are reported to affect one-third of women of reproductive age around the world, according to a report by the World Health Organization (WHO). Sexually transmitted infections (of which RTI is a significant contributor) are also classified among the "top five disease categories," by WHO. The risk of women contracting RTIs are high in rural India, where, in the absence of toilets in villages, access to sanitation is till limited. Sanitary pads are either too expensive or unavailable for women in many parts of India. And unless we provide awareness to women, remove the stigma, increase accessibility to affordable products; we are not solving the problem in its entirety.

Non-biodegradable sanitary napkins pose a huge challenge in India, where disposal system are largely missing in rural areas. According to census 2011 population data, 336 million girls and women in India experience menstruation and it can be safely estimated that about 121 million girls and women are currently using locally or commercially produced disposable sanitary napkins. The end result is that a staggering one billion non-compostable pads are landing up in urban sewers, landfills, as well as in rural fields and water bodies in India every month which takes years to decompose. The lack of disposal treatment options may lead to unsafe management of a mammoth volume of menstrual waste, which affects the health of those living in the areas that the waste is disposed of, as well as negatively affecting the water cycle in the area.

Menstruation is still a taboo subject in India and the lack of first-hand understanding of the experience of menstruation by most policy makers means that it has not received the requisite importance it deserves when it comes to framing policy. There is need to provide information to women and adolescent girls regarding how frequently one should change sanitary napkins and what is the proper methods to dispose of them. They need somewhere private to change sanitary cloths or pads; clean water and soap for washing their hands, bodies and reusable cloths; and facilities for safely disposing of used materials or a clean place to dry them if reusable. To avoid staggering amount of non-degradable waste generated by using synthetic sanitary pads, there is need to promote manufacturing and usage of biodegradable pads. There is also a need for both men and women to have a greater awareness of good menstrual hygiene practices.

Hence this Bill.

NEW DELHI;

SUPRIYA SULE

February 6, 2018.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for creating awareness regarding menstrual hygiene management. It also provides for organising seminars and counselling sessions in educational institutions. Clause 4 provides for availability of affordable sanitary napkins in villages and remote areas as well as in the schools and colleges. Clause 5 provides for sale of sanitary napkins at retail outlets at affordable price. Clause 6 provides for manufacturing of biodegradable sanitary napkins. Clause 7 provides for construction of toilets in educational institutions. Clause 9 provides the Central Government shall provide funds to the State Governments for the effective implementation of the Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crore would be involved as recurring expenditure per annum.

A non-recurring expenditure of rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 125 OF 2018

A Bill to constitute an Anganwadi Workers Welfare Authority to provide for performance based pay to anganwadi workers and helpers, regularise their employment, recognise the unpaid work done by anganwadi workers and protect their right to financial entitlement, increase their wages and index them to inflation, provide for penalty to be paid to workers in case of delay in the payment of their monthly wages, redefine their job role and increase their responsibilities, make affordable healthcare accessible to anganwadi workers, helpers and their families through health insurance scheme and healthcare coupons, provide for paid maternity leave, social security and pension benefits to anganwadi workers, improve access to education among children of anganwadi workers through scholarships and reservations, provide for quota in all government jobs for children of anganwadi workers and for all matters connected therewith or incidental thereto.

WHEREAS the 45th Indian Labour Conference has recommended recognition of scheme for workers (including anganwadi workers under the Integrated Child Development Services Scheme) as regular workers stipulating them with minimum wages and social security benefits;

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Anganwadi Workers (Empowerment and Welfare) Act, 2018.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "anganwadi worker" means a woman employed to provide additional and supplementary healthcare and nutritional services to children and pregnant women under the Integrated Child Development Services Scheme (ICDS Scheme);

(b) "appropriate Government" means in the case of a State or a Union territory having legislature, the concerned State Government or the Union territory Government, as the case may be, and in all other cases, the Central Government;

(c) "Authority" means the Anganwadi Workers' Empowerment and Welfare Authority constituted under section 3;

(d) "placement agency" means any agency or contractor, whether registered or otherwise, engaged in the placement of children of anganwadi workers with prospective private employers; and

(e) "prescribed" means prescribed by the rules made under this Act.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be constituted, an Authority to be known as the Anganwadi Workers Empowerment and Welfare Authority.

Constitution
of the
Anganwadi
Workers
Empowerment
and Welfare
Authority.

(2) The Authority shall consist of—

(a) the Union Minister of Women and Child Development — *ex-officio*, Chairperson;

(b) the Union Ministry of Health and Family Welfare — *ex-officio*, Vice-Chairperson;

(c) the Director General of Health Services, Union Ministry of Health and Family Welfare — *ex-officio* member;

(d) the Secretaries of the Union Ministries of Women and Child Development, Health and Family Welfare and Statistics and Programme Implementation — *ex-officio* members;

(e) the Chairperson, National Commission for Women — *ex-officio* member;

(f) the Director, National Institute of Health and Family Welfare — *ex-officio* member;

(3) The Central Government shall appoint such number of officers and staff as it considers necessary for the efficient functioning of the Authority.

(4) The salary and allowances payable to and other terms of conditions of services of officers and staff of the Authority shall be such as may be prescribed.

4. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed.

Meetings of
the Authority.

(2) The expenditure incurred to attend meetings by the members referred to in sub-clauses (a) to (f) of section 3, shall be borne by their concerned controlling authorities.

Functions of
the Authority.

5. The Authority shall, under guidance of the appropriate Government,—

(a) formulate a comprehensive policy for welfare of Anganwadi workers;

(b) forward such information as it may deem necessary to departments of the State Governments;

(c) undertake a baseline study to collect comprehensive data about anganwadi workers and their families, nutritional and health status of children (below six years of age) and pregnant women within one year of its establishment; and

(d) formulate a policy to redefine responsibilities of anganwadi workers and anganwadi helpers to include, but not limited to, participation in health screening programs for especially cancer in women, public awareness activities for all sectors of health, sanitation, education, road safety and any other such service, within one year of its establishment; and

(e) discharge such other functions as may be assigned to it by the Central Government:

Provided that the roles and responsibilities of anganwadi workers and anganwadi helpers, prescribed under clauses (c) and (d) shall be in addition to the functions already carried out by them under the Integrated Child Development Services Scheme (ICDS Scheme).

Regularisation
of
employment
of anganwadi
workers and
anganwadi
helpers.

6. (1) The Authority shall recommend to the Central Government to regularise the service of anganwadi workers and anganwadi helpers and confer the status of permanent Government employees on such workers and helpers.

(2) The Authority shall, in consultation with the State Governments, decide the formula and criteria for determination of wages of anganwadi workers and anganwadi helpers:

Provided that the wages and other incentives including bonus to be paid anganwadi workers and anganwadi helpers shall be directly linked to the improved nutritional status of children and pregnant women under their care:

Provided further that the wages of anganwadi workers and helpers shall be indexed to market inflation.

Penalty to be
paid by the
appropriate
Government
for delay in
payment of
wages and
transfer of
funds to
anganwadi
centres.

7. (1) The appropriate Government shall pay interest at such rate as may be determined for any delay in —

(a) payment of wages and performance related bonuses to be paid to the anganwadi workers and anganwadi helpers; and

(b) transfer of funds to anganwadi centres for providing nutritional supplements to children, pregnant women and its normal functioning:

Provided that if the delay is in the payment of Central Government share of wages to the anganwadi workers and anganwadi helpers or its contribution to the anganwadi centres, then the Central Government shall pay monthly interest at the rate of twenty per cent, on its wage share for the entire delay period:

Provided further that if the delay is in the payment of State Government's share of wages to the anganwadi workers and helpers or its contribution to the anganwadi centres, then the respective State Government shall pay monthly interest at the rate of fifteen per cent. on its wage share for the entire delay period:

Provided also that where the delay in payment of the Central Government and the State Government share is more than a month then the interest shall be compounded monthly.

Vacancies in
posts at
anganwadi
centres and
joint
responsibilities.

8. (1) In cases of vacancies in posts of supervisors, workers or helpers at the anganwadi centres, and where the existing workers or helpers are burdened with performing additional responsibilities of the posts lying vacant, such workers or helpers shall be paid additional salary for undertaking such additional work.

(2) In case of delay in the payment of additional salary under sub-section (1), the provisions of payment of interest as mentioned under section 7 shall apply.

(3) The appropriate Government shall fill the vacancy within two months from the date on which such post becomes vacant.

9. (1) The Authority shall impart pre-service and in-service training to anganwadi workers and anganwadi helpers and also initiate capacity building programme for such workers and helpers to enable them to carry out their responsibilities in the best possible way.

Training of Anganwadi Workers and Anganwadi Helpers and computerisation of health records.

(2) The training under sub-section (1) shall include—

(a) training in maintenance of health and nutritional records of children, pregnant and lactating women in digital form; and

(b) bimonthly training in digital and medical technologies.

10. The appropriate Government shall—

Healthcare facilities and coupons for families of anganwadi workers and helpers.

(a) provide qualitative and affordable healthcare to anganwadi workers and their families including their spouse, children and parents.

(b) provide healthcare coupons to anganwadi workers that may be redeemed for free healthcare in private hospitals.

11. (1) The anganwadi workers and anganwadi helpers shall be entitled to paid maternity leave.

Maternity benefits to anganwadi workers and helpers.

(2) The cost of paid maternity leave shall be borne by the appropriate Government on the basis of the cost sharing ratio on which the monthly wages are paid.

12. The anganwadi workers and anganwadi helpers shall be entitled to pension and other social security benefits, to be paid by the appropriate Government, on the basis of the cost sharing ratio on which wages are paid.

Pension and social security benefits to anganwadi workers and helpers.

13. (1) The Central Government shall provide scholarship to children of anganwadi workers and helpers till completion of their school education.

Scholarships and reservation in schools and colleges to children of anganwadi workers and helpers.

(2) The Central Government shall, in consultation with the State Government, reserve five *per cent.* of seats in all Government schools and colleges in favour of children of anganwadi workers and anganwadi helpers.

14. (1) The Central Government shall reserve three *per cent.* of jobs in the public sector in favour of children of anganwadi workers.

Reservation in public sector jobs to children of anganwadi workers.

(2) The Central Government shall, in consultation with the Authority, determine the relevant principles and criteria for providing reservation in favour of children of anganwadi workers helpers in job under the State.

15. The Authority shall, in consultation with the appropriate Government, constitute a Placement Agency to engage the children of anganwadi workers with prospective private employers.

Constitution of Placement Agency.

16. The State Government shall direct supervisors and Child Development Project Officers to visit the anganwadi centres and families of anganwadi workers every month, and submit a report to the appropriate Government apprising the working conditions of anganwadi workers and anganwadi helpers alongwith benefits being provided under welfare schemes and policies formulated under this Act and the functioning of the anganwadi centres in such manner as may be prescribed.

Monthly supervision of anganwadi centres and report submission by Child Development Project Officers.

Benefits to
anganwadi
workers over
and above the
present
benefits.

17. The health, education, employment and such other welfare measures to be provided to anganwadi workers and helpers under this Act shall be in addition to the benefits already available to such workers and helpers.

Annual report
and its laying
before the
Parliament.

18. (1) The Authority shall prepare once every year, as may be prescribed, an annual report giving the summary of its activities, including schemes implemented, recommendations made to the appropriate Government and statements of its annual accounts and submit the same to the Central Government.

(2) The Central Government shall cause the annual report of the Authority to be laid, before each House of Parliament within a period of one year from the date of receipt of such report.

Central
Government
to provide
funds.

19. The Central Government shall, from time to time, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Power to
remove
difficulties.

20. If any difficulty arises in giving effect to the provisions of this Act, the Central Government, in consultation with the State Governments, may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of any difficulty:

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Power to
make rules.

21. (1) The Central Government may, by notification in Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament or, as the case may be, each House of the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive, sessions aforesaid, Parliament or, as the case may be, the State Legislature agrees in making any modification in the rule or agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Healthcare workers are an important link between the healthcare providers and community, and are instrumental in raising awareness about health related risks, especially in rural areas. Study undertaken about functioning of the anganwadi centres proved that interventions by anganwadi workers and helpers can help in early detection and appropriate management of preventable childhood disabilities like malnutrition.

As per the National Family Health Survey (NFHS), the malnutrition in children (below five years of age) reduced to 35.7 per cent. in NFHS-4, compared to 42.5 per cent. in NFHS-3. *Anganwadi sevikas* who work at the grassroot level are major contributors for this reduction in malnutrition. Anganwadi workers are responsible for actual delivery of healthcare and education services under the Government's Integrated Child Development Services Scheme (ICDS scheme). The National Early Childhood Care and Education (ECCE) Policy of the Central Government notified in the year 2013, envisaged anganwadi centres as vehicles of ECCE service delivery. *Anganwadi sevikas* undertake a range of crucial functions and are responsible for conducting real time monitoring of malnutrition among children and lactating mothers, organise immunization drive along with Auxiliary Nurse Midwife (ANM), maintain growth monitoring charts to track and assess the nutrition status of children, maintain records (including registrations of births and deaths), provide pre-school and health education, distribute supplementary nutrition, undertake health check-ups and referral services among others.

The importance of anganwadis is also reflected in the renaming of ICDS Scheme as Anganwadi Services Scheme. The *anganwadi sevikas* are equipped with increasing responsibilities over the years. Under Access to Justice project, the anganwadis also aid in facilitating access of legal services to marginal communities. As per the Centre for Equity Studies Report, the burden of non-ICDS work on the anganwadi workers was high, as reflected in the percentage of anganwadi workers mobilised for other non-ICDS work. For instance, in 2014, 17 per cent of anganwadi workers were mobilised for panchayat related work, 46 per cent, for pulse polio, 42 per cent, for election work and 22 per cent. for other work. Thus, on an average 63 per cent. of the anganwadi workers were mobilised for non-ICDS work in 2014. There is need to increase the role and responsibilities of anganwadi workers by including participation in health screening programs for especially cancer in women, public awareness activities for all sectors of health, sanitation, education, road safety, among others. Despite the importance of the functions they perform and their ever increasing responsibilities, they are not entitled to any wages but are paid a meager amount of honorarium by the Central and the State Governments as per the cost sharing ratio. While a respective State's contribution to the honorarium varies, the Central Government pays its share of monthly honorarium to the anganwadi workers and anganwadi helpers at the rate of Rs. 3,000/- and Rs. 1,500/- respectively. Recognition of the relatively unpaid care work done by women anganwadi workers and right to financial entitlements, job security and other employment related benefits is also required. The 45th Indian Labour Conference has also recommended the recognition of this scheme workers (including anganwadis under Integrated Child Development Services Scheme) as regular workers stipulating them with minimum wages and social security benefits.

In context of their changing responsibilities and roles, there is need to regularise anganwadi workers and anganwadi helpers and confer the status of permanent Government employees to them. The payment and bonuses are required to be based on the nutritional status of children, rather than keeping them fixed. As per the research undertaken by Bill and Melinda Gates Foundation, the performance pay and bonuses paid to healthcare workers based on the nutritional status of children in their care, proved to be effective in improving the nutritional status of children, compared to fixed bonuses. While this initiative reduced the prevalence of underweight among children five percentage points, height of the children increased by one centimeter, in a short span of three months.

The wages paid to the anganwadi workers and helpers shall be indexed to inflation. As per the Progress of Children Under Six Report, 2016 released by the Centre for Equity Studies, 35 per cent of the anganwadi workers were not paid their wages on time. To counter the problem of delay in wages to anganwadi workers and budget for buying nutritional supplements at anganwadi centres, a monthly interest at the rate of 20 per cent. and 15 per cent. respectively on the delayed amount for the entire period of delay should be paid by the Central and the State Governments. The interest shall be compounded, if the delay period is more than a month.

To deal with the issue of vacancies in posts at anganwadi centres and the resulting work overload, the provision for payment of wages for both positions to the anganwadi performing tasks related to both posts has to be made and any delay in payment shall be subject to penalty conditions.

Also participation of anganwadi workers in the health screening programs is necessary. The Medical Research Institutes in India undertook health screening program involving the anganwadi workers by training them of the risks of cancer and various tests for cancer. This has shown positive results with the number of people attending the health care camps for screenings, followed by diagnosis and treatment increased, especially for cancer screening among Indian women. To keep the workers up to date with the evolving technologies, frequent pre-service and in-service training and capacity building programme is required. The compulsory computerisation of health records and requisite training and technology for the same is also necessary.

Qualitative and affordable healthcare to *anganwadi sevikas* through healthcare coupons which can be redeemed for free healthcare at private hospitals is required which can be availed by these anganwadi workers and their spouse, children and parents. These *anganwadi sevikas* shall also be entitled to get paid maternity leave, the cost of which shall be shared by both the Central and the State Governments in the same cost sharing ratio as the wages. The provisions of pension after the retirement and other social security benefits to be paid to Anganwadi workers and helpers by the Government to overcome the pitiable conditions of the anganwadi workers and anganwadi helpers. Also to provide access to education, scholarships to children of anganwadi workers till their completion of school education shall also be granted. Further, provision of reservation of atleast five per cent. of seats in all Government schools and colleges, 3 per cent. of jobs in the public sector for children of anganwadi workers and helpers be made. Placement Agency is required to be constituted to engage children of anganwadis with prospective private employers. Monthly supervision of anganwadi centres and anganwadi household by Child Development Project Officers (CDPOs) to ascertain whether the benefits which are in addition to the services allocated to them under the present ICDS scheme to anganwadi workers' families are being realized or not.

The Bill, therefore, champions for the rights and welfare of the anganwadi workers and anganwadi helpers by mandating the Government to allocate the anganwadi workers and anganwadi helpers their due share of entitlements *viz*, wages and bonuses, healthcare and education services, pension and social security benefits.

Hence this Bill.

NEW DELHI;
July 2, 2018.

SUPRIYA SULE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of the Anganwadi Workers' Empowerment and Welfare Authority. It also provides appointment of such number of officers and staff for its functioning. Clause 4 provides for meetings of the Authority to observe rules of procedure for transaction of business. Clause 8 provides for additional salary to the anganwadi workers for undertaking additional responsibilities. Clause 9 provides for training of anganwadi workers and helpers. Clause 10 provides for affordable healthcare services and coupons to anganwadi workers and anganwadi helpers. Clause 11 provides for paid maternity leave to anganwadi workers and anganwadi helpers. Clause 12 provides for pension and social security benefits to the anganwadi workers and anganwadi helpers. Clause 13 provides for scholarships and reservation in educational institutions and in job in public sector in favour of children of anganwadi workers and helpers. Clause 15 provides for constitution of a Placement Agency to engage children of anganwadi workers and anganwadi helpers with prospective private employers. Clause 19 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of five thousand crore rupees would be involved per annum.

A non-recurring expenditure to the tune of rupees two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 48 OF 2018

A Bill to provide for compulsory first aid training to students in schools in the country.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Compulsory First-Aid Training in Schools Act, 2018.
- (2) It extends to the whole of India.
- (3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "first-aid" means emergency care or treatment given to an ill or injured person before regular medical aid may be obtained;

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "school" means—

(i) a school established, owned or controlled by the appropriate Government or a local authority or a Non-Governmental Organisation; or

(ii) an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority or a Non-Governmental Organisation; or

(iii) an educational institution managed by a private entity, society or a trust,

which imparts education at elementary, secondary or senior secondary level.

3. From such date, as the Central Government may, by notification in the Official Gazette specify, training of first-aid shall be compulsorily imparted in all schools.

Compulsory training of First-Aid in schools.

4. (1) The appropriate Government shall, include compulsory First-Aid training in theory and practical of the curriculum from ninth to the twelfth standard irrespective of stream of study selected by the student.

Compulsory First-Aid training.

(2) The appropriate Government shall evaluate the curriculum regarding first-aid training from time to time and also issue necessary directions to schools within its jurisdiction.

5. The appropriate Government shall issue certificates to all students who successfully complete first-aid training.

Appropriate Government to issue Certificates.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the State Governments of carrying out the purposes of this Act.

Central Government to provide funds.

7. The Central Government shall issue such directions to the State Government or, as the case may be, the local authority, as it may deem fit for the purposes of implementation of the provisions of this Act.

Power to issue directions.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rules made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Thousands of lives in our country are lost every year, due to lack of trained and skillful citizens for providing medical First-Aid to victims of accidents and absence of primary healthcare system in many parts of the country. Accidents and emergency situations are not always completely preventable or unavoidable. In some situations if the patients do not receive basic first-aid immediately their situation may deteriorate rapidly. Without proper First-Aid, a simple injury could become severe and in some cases fatalities can occur as a result of lack of immediate medical treatment.

A trained and skillful person in providing medical first-aid becomes more than just another bystander, but extends life saving support not only to a victim, but also helps the professional emergency responders and medical practitioners.

In its most basic form, First-Aid is the initial assistance given to a victim of injury or illness. Basic First-Aid knowledge is comprised of relatively simple techniques and procedures that can be performed with limited equipment and is typically carried out until professional medical assistance arrives. First-Aid can and often lessens the severity of an emergency in a given time and place. By being able to provide basic care one can stabilize a patient until emergency medical services arrives. First-Aid Training teaches how to use basic household items as tools if a first-aid kit is not available. While it is natural for most of us to rush to support any injured person, a trained person is more reliable, confident and in control of himself and his actions while in traumatic situations.

In our country, training in First-Aid has always been a neglected subject. If compulsory First-Aid training is given to students, a wide population of our country shall become trained in providing First-Aid services and many lives will be saved in emergency situations.

Hence this Bill.

NEW DELHI;
January 17, 2018.

SHIVAJI ADHALRAO PATIL

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for inclusion of First-Aid training compulsorily in school curriculum from ninth to twelfth standard. Clause 5 provides for the Central Government to issue certificates to all students who have successfully completed First-Aid Training. Clause 6 provides that the Central Government shall provide adequate funds to the State Governments for carrying out the purposes of this Act. The expenditure relating to State Governments shall be borne out of the Consolidated Funds of States concerned. The expenditure in relation to Union Territories shall be incurred from the Consolidated Fund of India. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five hundred crores may involve as recurring expenditure per annum.

A non-recurring expenditure of rupees one hundred crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of a normal character.

BILL NO. 39 OF 2018

A Bill further to amend the Prevention of Cruelty to Animals Acts, 1960.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Prevention of Cruelty to Animals (Amendment) Act, 2018.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of
section 22.

2. In section 22 of the Prevention of Cruelty to Animals Act, 1960, the following proviso shall be inserted at the end, namely:—

"Provided that nothing contained in this section shall apply to conduct of *bailgada sharyat* or bullock cart race in the State of Maharashtra."

STATEMENT OF OBJECTS AND REASONS

The bullock cart race or *bailgada sharyat*, as locally called, is being celebrated extensively in the district of Pune and other parts of the State of Maharashtra. This traditional festival has a history of being celebrated for the last many centuries. However the bullock cart race has been banned by the Union Ministry of Environment, Forests and Climate Change citing provisions of section 22 of the Prevention of Cruelty to Animal Act, 1960. The Hon'ble Supreme Court had also given a similar judgment banning the bullock cart race on 7th May, 2014.

Keeping in view the sentiments of the people in mind, the State Government of Maharashtra passed an amendment Bill legalising bullock cart races in the State. The Bill was then sent for the kind approval of the President of India. The President has assented to the same. However, this could not be implemented with the intervention of the High Court of Bombay on an appeal by People for the Ethical Treatment of Animals. Thus, the people of Maharashtra are still deprived of the celebrations of their festival and cultural heritage.

These bullock cart races or *bailgada sharyat* functions consist of taming of bulls as a part of ancient culture and tradition of the Maharashtrians. At present, there is no legislation to regulate the conduct of bullock cart race or *bailgada sharyat* or any such activity involving the taming of bulls. Unless the necessary amendments are made to the Central Act, the bullock cart races could not be conducted lawfully.

The Bill, therefore, seeks to amend the Prevention of Cruelty Act, 1960 with a view to permit exhibition and training of bulls for bullock cart races or *bailgada sharyat* in the State of Maharashtra.

Hence this Bill.

NEW DELHI;
January 17, 2018.

SHIVAJI ADHAL RAO PATIL

BILL NO. 43 OF 2018

A Bill further to amend the Maternity Benefit Act, 1961.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Maternity Benefit (Amendment) Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 3.

2. In section 3 of the Maternity Benefit Act, 1961 (hereinafter referred to as the principal Act),—

(a) after clause (c), the following clause shall be inserted, namely:—

“(ca) ‘doctor’ means registered gynaecologist practicing in registered hospital or maternity centre of the appropriate Government;”;

(b) after clause (g), the following clauses shall be inserted, namely:—

“(g) ‘laboratory’ means registered laboratory having facility of pathology tests, blood tests, ultrasounds and related facilities;” and

(c) after clause (k) the following clauses shall be inserted, namely:—

“(ka) ‘pregnant woman’ means a woman who at the time of pregnancy has either no living child or only one living child; and

“(kb) ‘pregnancy period’ means period of time before delivery;”.

3. After section 4 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
4A.

“4A. (1) Every pregnant woman during the pregnancy period shall be entitled to avail half day paid leave as pre-maternity benefit for every routine health check-up or undergoing medical tests prescribed by a doctor subject to a maximum of five half days paid leave in a month:

Right to Pre-
Maternity
Benefit.

Provided that if a pregnant woman undergoes medical tests prescribed by doctor on the day of routine health check-up, such woman shall be eligible to avail two half days paid leave on the same day.

(2) Every pregnant women entitled to payment of pre-maternity benefit under sub-section (1) shall furnish the prescription of doctor and payment receipt of laboratory to avail the benefit.”.

4. After section 21 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
21A.

“21A. If any employer contravenes the provisions of section 4A, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees.”.

Penalty for
not providing
pre-maternity
benefit.

STATEMENT OF OBJECTS AND REASONS

Every pregnancy is special and every pregnant woman should receive special care. Any pregnant woman can develop life-threatening complications with little or no advance warning, so all pregnant women need access to quality antenatal services to detect and prevent life-threatening complications during childbirth.

With the implementation of several schemes and campaigns like *Pradhan Mantri Surakshit Matritva Abhiyan* mortality rate has reduced during pregnancy and delivery, but the goal of safe mother and safe child is yet to be achieved. In our country Maternity Benefit Act, 1961 was enacted to provide benefits of continuous paid leave pre and post delivery. But this Act doesn't cover the paid leave required by a pregnant woman for regular visits for health checkups and for other related services. In many cases, many working pregnant women either defer or do not go for regular checkups as they cannot afford half day or day off or they are denied leaves to undergo visit to doctor.

As per latest data of the Rapid Survey on Children (2013-14), the institutional deliveries in India are 78.7 per cent. In spite of this massive increase in the number of pregnant women coming to institutions for delivery, till date only 61.8 per cent. women receive first ANC IN FIRST trimester (RSOC) and the coverage of full ANC is as low as 19.7 *per cent.* (RSOC).

Despite availability of treatment guidelines, mechanisms for monitoring and supportive supervisions, regular training of healthcare providers at different levels across the country, Maternal Mortality Rate with MMR of 167 per 1,00,000 live births still remains. Timely detection of risk factor during pregnancy and childbirth can prevent deaths due to five preventable causes. In this context to build a healthy India and to save working mothers life and safe delivery, it is necessary to provide paid leave to working pregnant woman of our country.

The Bill, therefore, seeks to amend the Maternity Benefit Act, 1961 with a view to provide for half day paid leave as pre-maternity benefit to every pregnant woman for every routine health check-up or undergoing medical tests prescribed by a doctor subject to a maximum of five half days paid leave in a month.

Hence this Bill.

NEW DELHI;
January 17, 2018.

SHIVAJI ADHALRAO PATIL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provide for half day paid leave as pre-maternity benefit to every pregnant woman for every routine health check-up or undergoing medical tests prescribed by a doctor subject to a maximum of five half days paid leave in a month. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five hundred crore may involve as recurring expenditure per annum.

No non-recurring expenditure is likely to involve.

BILL NO. 88 OF 2018

A Bill to provide for compulsory establishment of medical centres in schools to promote positive health, prevention and treatment of common diseases among students and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and extent.

1. (1) This Act may be called the Compulsory Establishment of Medical Centres in Schools Act, 2018.

(2) It extends to the whole of India.

Definitions.

2. In this Act, unless for context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "doctor" means a medical practitioner registered with the Medical Council of India;

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "school" means a school run by the Central Government or a State Government or a local authority or by an authority designated or sponsored by the appropriate Government and includes Government aided school and recognised private school.

3. (1) The Central Government shall, in consultation with the Medical Council of India, within a period of six months from the commencement of this Act, formulate a universal health policy for students in schools.

Central Government to formulate health policy for students in schools.

(2) The Central Government shall issue guidelines and directions to the State Governments for providing medical facilities in schools from time to time.

4. It shall be the duty of the appropriate Government to ensure that every school, within its jurisdiction, is fully prepared to follow medical health scheme as prescribed.

Schools to be prepared for medical emergency.

5. It shall be the duty of the appropriate Government to,—

Appropriate Government to provide certain facilities.

(a) appoint a registered medical practitioner and a qualified nurse in every school;

(b) make provision of a health checkup of students and blood sample collection centre in every school;

(c) maintain data of health status of students in schools;

(d) screen for deficiencies, diseases and disabilities amongst students in schools;

(e) make provision of counseling and treatment of students wherever deficiencies and diseases are detected;

(f) make provision for referral of students wherever required to district First Referral Unit or tertiary hospitals;

(g) create health awareness and inculcate healthy habits among students in every school;

(h) facilitate continuum of healthcare of students in schools by creating data base; and

(i) provide facilities of pathological tests and medical treatment to the students for the following diseases:—

(i) anemia;

(ii) refractive errors;

(iii) dental problem;

(iv) respiratory infections;

(v) gastrointestinal problems;

(vi) skin diseases;

(vii) fever;

(viii) headache;

(ix) injuries;

(x) nutritional deficiencies;

(xi) urinary tract infection;

(xii) jaundice;

(xiii) eye ailments;

(xiv) gynecological problems;

(xv) worm infestations;

(xvi) behavior problems;

(xvii) ear ailments;

(xviii) weakness or fatigue;

(xix) obesity;

(xx) burns;

(xxi) thyroid;

(xxii) others (animal bites, assault, drug addiction, epilepsy, mental retardation).

Schools to provide certain facilities.

6. It shall be the duty of the every school to,—

(a) provide adequate space in school premises for medical facility room where a doctor and a qualified nurse shall screen, take blood samples, treat children and shall provide consultation to students; and

(b) provide facility like computer and internet connectivity to maintain and communicate data to appropriate Government and parents of the students.

Duty of the parents.

7. It shall be the duty of every parent to apprise the school administration of the special medical needs of his child and keep a slip in the school bag of the child mentioning the kind of medical treatment being taken by such child.

Schools not to charge extra amount for arranging medical facilities.

8. The appropriate Government shall take steps to ensure that no school charges any amount from the parents of students for arranging medical facility for students or refuses admission to any child, who is suffering from any disease which is not life threatening.

Central Government to provide funds.

9. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for the purposes of this Act.

Act to have overriding effect.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force relating to medical preparedness in schools or in any instrument having effect by virtue of any law other than this Act.

Power to make rules.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Children of today are tomorrow's citizen, thus it is extremely important to ensure good health for children. Child health plays a vital role in the development of a country. Children are the assets for tomorrow's productivity. The growth of any country depends on the availability of healthy human resource. Healthy children ensures a healthy adult who in turn ensure a sound growth and development of the economy.

According to the World Health Organisation (WHO), forty-three *per cent.* of Indian children are underweight. Our country is home to the largest child population in the world. A substantial forty-one *per cent.* *i.e.* around 450 million of total population are children. India accounted almost forty-three *per cent.* underweight children against thirty-two *per cent.* in Pakistan, nine *per cent.* in South Africa. Nutritional level among the children is the basic element of their overall mental and physical development. Malnutrition among the children reduced significantly over the time, but still the number of malnourished children is very high in the country. Thus, there is a need, to be more focused on the child health issues to early detect and cure disease for better health opportunity and support to build a better and healthy India.

The Bill, therefore, seeks to provide for compulsory establishment of medical centres in schools to promote positive health in children, provide prevention including screening of school children for common diseases, deficiency, early diagnosis and treatment.

NEW DELHI;
February 22, 2018.

SHIVAJI ADHALRAO PATIL

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the appropriate Government to ensure that every school, within its jurisdiction, is fully prepared to follow medical health scheme. Clause 5 provides that the appropriate Government shall appoint a doctor and a nurse in every school. It also provides for provision of health check up, blood sample collection for pathological tests and treatment of students suffering with common diseases in every school. Clause 9 provides that the Central Government, shall after due appropriation, provide adequate funds to the State Governments for the purposes of this Act. The expenditure relating to States shall be borne from their respective Consolidated Funds. The expenditure relating to Union territories shall be borne from the Consolidated Fund of India. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of rupees five hundred crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 250 OF 2017

A Bill to provide for the removal of hunger and malnutrition and for the prevention of starvation deaths of tribal children including adolescent and young girls and pregnant and lactating women in tribal areas of the country particularly in Jharkhand through a nodal agency at the National and State levels, by formulating a National policy for the purpose and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Tribal Children and Lactating Women in Jharkhand and other States (Removal of Hunger, Malnutrition and Prevention of Starvation Deaths) Act, 2017.

Short title and
commencement.

(2) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "adolescent girl" means a female human being who has attained puberty and is below the age of eighteen years;

(b) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(c) "girl child" means a female human being who is below the age of twelve years;

(d) "Nodal Agency" means the Nodal Agency constituted under section 4 for the purposes of this Act;

(e) "prescribed" means prescribed by rules made under this Act.

National Policy for the removal of hunger, malnutrition and prevention of starvation deaths of tribal children and lactating mothers.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the Central Government shall, as soon as may be, but not later than one year of the commencement of this Act, formulate and publish in the Official Gazette, a National Policy for the overall protection and removal of hunger, malnutrition and prevention of starvation deaths of tribal children and pregnant and lactating tribal women particularly in the tribal areas of Jharkhand and shall take appropriate measures for the uniform implementation of such Policy.

(2) In particular and without prejudice to the generality of the provisions contained in sub-section (1), the National Policy may include provision for,—

(a) conducting surveys, from time to time of the tribal children, pregnant women and lactating mothers in the tribal areas of Jharkhand and other parts of the country who are malnourished, anaemic and underweight and maintaining district-wise data thereof in such manner and with such particulars as may be prescribed;

(b) conducting periodic medical examination of every child including girl child and adolescent girls, pregnant as well as lactating mothers covered under this Act and for taking such remedial measures as may be recommended by dieticians and medical authorities;

(c) making it mandatory for the appropriate Government to ensure as well as provide at least two healthy meals per day, milk, seasonal fruits, folic acid and multi-vitamin tablets to every malnourished or anaemic and underweight children, girl child, pregnant and lactating women covered under this Act;

(d) providing medical care to the children and women covered under this Act and providing sanitary napkins and proper dresses to adolescent and grown up girls covered under this Act by the appropriate Government in such manner as may be prescribed.

Constitution of a Nodal Agency.

4. (1) The Central Government shall, by notification in the Official Gazette, constitute a Nodal Agency consisting of a Chairperson, such number of members representing various fields, such number of officers and staff as may be prescribed, for the purpose of this Act.

(2) The salary and allowances payable to and other terms and conditions of service of the Chairperson, members, officers and staff of the Nodal Agency and procedure to be followed by the Nodal Agency in discharging its functions shall be such as may be prescribed.

(3) The Nodal Agency shall,—

(a) classify tribal areas in each State as high, medium or low burden area with regard to malnutrition, anaemia, hunger, starvation deaths and such other issues as may be prescribed;

(b) identify malnutrition, anaemia, hunger eradication targets and suggest measures to overcome the problem of malnutrition, anaemia, hunger cases in tribal areas of every State in a time bound manner; and

(c) recommend to the Central Government and State Governments having tribal areas within their territorial jurisdiction with regard to the implementation of this Act and framing of rules and regulations as it may consider necessary.

5. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds, from time to time, to the States and Union territories for carrying out the purposes of this Act.

Central Government to provide requisite funds.

6. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Act to supplement other laws.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Our vast Nation, the second most populous in the globe after China has, unfortunately, the highest number of malnourished and anaemic children including girl child, adolescent girls, women including pregnant and lactating mothers. The problem is more acute in the tribal areas of our country.

In Jharkhand alone, every monsoon over 40,000 children slip into malnutrition in tribal dominated Santhal Pargana. Due to persistent hunger, anaemia amongst the girl child, adolescent girls, pregnant women and lactating mothers is prevalent not only in Santhal Pargana but also in almost all the tribal areas of the country. Starvation deaths, though generally denied by the Government authorities, are also reported from time to time not only in tribal areas of Jharkhand but also from other States too.

On record there are at least 15 schemes to augment the nutrition of children and mothers in Santhal Pargana but on ground, due to lack of funds for these schemes, the road out of hunger is paved with failures. Union Ministry of Women and Child Development implements Integrated Child Development Services (ICDS) Scheme to control malnourishment through Anganwadis but it hardly reaches in tribal areas.

Hence, it is high time to pay more and concerted attention for the removal of hunger, malnutrition, anaemia amongst the children, girl child including adolescent girls, pregnant and lactating women in tribal areas of Jharkhand and other parts of the country so as to prevent starvation deaths in such areas.

Hence, this Bill.

NEW DELHI;
November 27, 2017.

NISHIKANT DUBEY

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for constitution of a Nodal Agency to identify areas affected with malnutrition, anaemia, hunger, starvation deaths and suggest measures to overcome the problems in tribal areas.

Clause 5 of the Bill makes it mandatory for the Central Government to provide requisite funds for carrying out the purposes of this Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is not possible to quantify the expenditure at this stage but it is estimated that a sum of rupees one lakh crore will involve as recurring expenditure per annum.

A non-recurring expenditure of rupees fifty crore may also involve for creating assets for implementation of the provisions of this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of normal character.

BILL NO. 237 OF 2017

A Bill to protect individual liberty, right of association, movement and bodily integrity and the right of adults to choose their own partners in marriage and to prevent victimisation by prohibiting unlawful assemblies and other conducts interfering with matrimonial alliances in the name of honour and tradition and for the matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Prevention of Crimes in the name of Honour and Tradition and Prohibition of Interference with the Freedom of Matrimonial Alliances Act, 2017.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) For the removal of doubts, it is hereby declared that all persons including young persons and women have the following rights—

Declaration of Rights of persons.

- (a) right to control their own lives;
- (b) right to liberty and freedom of expression;
- (c) right of association, movement and bodily integrity; and
- (d) right to choose their own partners in marriage or otherwise.

(2) Any action by any person or group of persons that restricts or prevents the exercise of the rights referred to in sub-section (1) shall be an offence under this Act.

3. (1) No person or any group of persons shall gather, assemble or congregate at any time with the view or intention of condemning any marriage, not prohibited by law, on the basis that such marriage has dishonoured the caste or community tradition or brought disrepute to all or any of the persons forming part of the assembly or the family or the people of the locality concerned.

Unlawful Assembly.

Explanation.—In this Section, the expression—

- (i) 'marriage' shall include a proposed or intended marriage; and
- (ii) 'gather', 'assemble' or 'congregate' shall include acting in concert through the use of any technological means or mediums.

(2) Such gathering or assembly or congregation shall be treated unlawful and every person convening or organising such assembly and every member thereof participating therein, directly or indirectly, shall be punished with imprisonment for a term of not less than six months but which may extend upto one year and shall also be liable to fine up to ten thousand rupees.

4. If any person or a group of persons, who is or are members of the family of the couple, who has married or intends to marry, or a person or persons acting in concert with, or at the behest of, a member of the family or a member of a body or a group of the caste or clan or community or caste panchayat (by whatever name called) or a member of unlawful assembly kills a women who has married or intends to marry, or kills the person whom the woman has married or intends to marry or kills any person associated with the couple, or abets, participates or incites such an act of killing, shall be guilty of an offence of murder under the Indian Penal Code, 1860.

Honour killing.

45 of 1860.

5. If any person or a group of persons, who is or are members of the family of the couple, who has married or intends to marry, or a person or persons acting in concert with, or at the behest of, a member of the family, or a member of a body or a group of the caste or clan or community or caste panchayat (by whatever name called) or a member of unlawful assembly indulges in criminal intimidation of the couple or either of them, or the members of their family, or supporters shall be punished with imprisonment for a term of not less than one year, which may extend upto three years and shall also be liable to fine up to thirty thousand rupees:

Criminal Intimidation.

45 of 1860.

Provided that if the threat be to cause death grievous hurt of the description referred to in second part of section 506 of the Indian Penal Code, then the punishment shall extend upto seven years of imprisonment instead of three years and fine up to thirty thousand rupees.

Explanation.—The expression 'criminal intimidation' includes repeated harassment of the couple or either of them with the view to pressurise them not to meet or associate with each other or live with each other or threatening the couple or either of them or their family or any person associated with them or harbouring them of retributive action of any kind whatsoever.

6. If any person or a group of persons, who is or are members of the family of the couple, who has married or intends to marry, or a person or persons acting in concert with, or

Harassment and endangerment of Liberty.

at the behest of, a member of the family, or a member of a body or a group of the caste or clan or community or caste panchayat (by whatever name called) or a member of unlawful assembly harasses a woman or her partner, or any person associated with them for exercising the rights as mentioned in section 2 or attempts to prevent either one or both of them from exercising these rights shall be deemed to have acted in the endangerment of their liberty and such an act of endangerment shall be punished with imprisonment for a period of not less than two years and extending up to ten years and fine extending up to fifty thousand rupees.

Explanation.—'Endangerment of liberty' shall include the acts of social sanctions, ostracization or social boycott and shall include, but shall not be limited to the following acts,—

(i) declaring the couple, who have married or intends to marry as brother and sister provided that they are not the children from the same natural parent and such a marriage is recognised by any law or custom for the time being in force;

(ii) bringing to bear pressure on the couple or their families or any person associated with them or harbouring them to leave the village or area of residence concerned;

(iii) indulging in any conduct which impedes or is likely to impede, access to markets, community facilities, places of worship or any other necessities of life;

(iv) divesting or dispossessing the couple or their families, or any persons associated with them or harbouring them of any land or property belonging to them;

(v) bringing to bear pressure on the couple, or their families or any person associated with them or harbouring them to pay a fine;

(vi) causing grievous hurt, or injury, or harm to the couple, or either of them, or their families, or any persons associated with them or harbouring them; and

(vii) any other act or acts of harassment whether physical or mental or psychological.

Declaration by a couple of the intention to be together.

7. Any two persons who intend to marry or associate with each other may declare their age and willingness to marry or associate, orally or in writing, before any Government official, who shall, on receipt of such information, inform the nearest Police Station and it shall be the responsibility of the police to protect the said couple against any offences mentioned under section 3 to 6 of this Act.

Obligation of certain persons to report an offence.

8. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all village officers, including the Sarpanch and such other officers as may be specified by the Sub-divisional Magistrate or District Magistrate in relation to any area, if they have reason to believe or have knowledge that any of the offences mentioned under sections 3 to 6 is likely to be committed or has been committed shall provide such information to the nearest police station forthwith.

2 of 1974.

(2) Any person who fails to report the commission of an offence under sub-section (1) shall be punished with imprisonment of either description which may extend upto six months or with fine or with both.

(3) No person shall incur any liability, whether civil or criminal, for giving the information in good faith for the purpose of sub-section (1).

Power to prohibit certain acts and taking preventing measures.

9. (1) The District Magistrate or the Sub-Divisional Magistrate shall receive any request or information from any person or persons seeking protection from any assembly of persons or from members of any family who are likely to or who have been objecting to any lawful marriage.

(2) Where the District Magistrate or the Sub-Divisional Magistrate receives information from any source that there is a likelihood of convening of an assembly openly or in secrecy

to condemn as objectionable any marriage proposed or solemnized, he shall, by order prohibit the convening of such assembly and doing of any act towards the commission of any offence under this Act by any person in any area specified in the order.

(3) The District Magistrate or Sub-Divisional Magistrate may take such steps as may be necessary to give effect to such order including giving appropriate directions to the police authorities concerned.

(4) The District Magistrate or Sub-Divisional Magistrate shall also take such steps as may be necessary to ensure the safety of the persons targeted by an unlawful assembly or by any person or a group of persons, who is or are members of the families of the couple, who has married or intends to marry, or a person or persons acting in concert with, or at the behest of, a member of the family, or a member of a body or a group of the caste or clan or community or caste panchayat (by whatever name called).

(5) The District Magistrate or the Sub-Divisional Magistrate shall be in direct supervision of the protection and safety of the persons concerned and their protection from any offence mentioned in sections 3 to 6 of this Act.

(6) Every official called upon to act in terms of the above provisions shall be accountable for their lapses, omissions or failures and the concerned State Governments shall provide for and take such action against them as may be deemed fit for their lapses, omissions or failure to act.

2 of 1974.

10. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 all offences under this Act shall be cognizable, non-bailable and non-compoundable.

Offences to be cognizable, non-bailable and non-compoundable.

11. Where any person is prosecuted for an offence under this Act, the burden of proving that he has not committed the offence shall be on the person being prosecuted.

Burden of Proof.

12. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Act not in derogation of any other law.

13. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

There has been an increase in number of crimes being committed against young couples intending to marry or having married, in the name of vindicating the honour of the family, caste or community. The Hon'ble Supreme Court of India in *Lata Singh v. State of Uttar Pradesh* rightly stated that "there is nothing honourable in such crimes, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal feudal-minded persons."

These crimes violate the fundamental rights of citizens including the right to life and liberty, right to bodily integrity and the freedom of movement and expression. They unduly emphasise on framework of 'honour' to control and regulate women's sexuality and their marital choices. Such crimes are also in violation of Article 16(1)(b) of the United Nations Convention on the Elimination of all forms of Discrimination against Women which provides that women should have the right to freely choose a spouse.

The Indian Penal Code, which is currently invoked to book offenders in cases of honour crimes neither covers the entire gamut of illegal actions perpetrated in the name of honour, nor provides for adequate provisions for ensuring protection of the consenting couple. Therefore, the Law Commission of India, in its Report No. 242 had recommended a legal framework to prevent acts endangering the liberty of the couple married or intending to marry and their family members. Furthermore, the Hon'ble Supreme Court of India, in *Arumugam Servai v. State of Tamil Nadu* had held that the District Magistrate/Collector and SSP/SPs of the district as well as other officials concerned should be held accountable for their failure to prevent honour crimes.

Therefore, in view of the need to address the grave concern, the current Bill seeks to provide for protecting the right to life and liberty of consenting adults, prohibition of unlawful assemblies, criminal intimidation, harassment, violence and interference in lawful matrimonial alliances in the name of honour and tradition and establishes power and accountability of District Magistrates and other officials concerned to prevent such crimes.

Hence, this Bill.

NEW DELHI;
November 27, 2017.

NISHIKANT DUBEY

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of a normal character.

BILL NO. 229 OF 2017

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2017.

Insertion of
new article
21B.

2. After article 21A of the Constitution, the following article shall be inserted, namely:—

Right to
affordable
housing.

“21B. The State shall provide affordable housing to all citizens in such manner as the State may, by law, determine.”.

STATEMENT OF OBJECTS AND REASONS

Housing is a basic human need. It is considered to be vital for human survival and essential for socio-economic development. India with a population of over 1.21 billion people, is the second most populous nation in the world. According to UN-HABITAT, India is home to sixty three per cent of all slum dwellers in South Asia. This amounts to 170 million people, seventeen per cent of the world's slum dwellers. India's per capita income although rising, ranks 124th in the world. Approximately thirty five per cent of India's population still earns rupees sixty or less per day. Census 2011 reported 1.77 million homeless people across India or 0.15 per cent of the country's total population.

The right to housing is the right to live in adequate shelter in security, peace and dignity. It is not merely having a roof over one's head, rather it requires an accessible habitable space that fulfills the basic human needs to personal space, security, adequate lighting and ventilation, safe structure, protection from weather besides its location, all at reasonable cost. Therefore it is the duty of the State to provide affordable adequate housing for all citizens.

In order to achieve the task, it is felt necessary that a provision should be made in the Constitution as part of the fundamental rights for the purpose. The Bill seeks to achieve the above objectives.

Hence this Bill.

NEW DELHI;
November 27, 2017.

NISHIKANT DUBEY

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to make affordable housing to all citizens a fundamental right. The Bill if enacted will involve expenditure from the Consolidated Fund of India. However, at this stage it will be difficult to make an estimate of such expenditure, both recurring and non-recurring. The exact amount can be worked out only when the provisions of the Bill are implemented.

BILL NO. 35 OF 2018

A Bill further to amend the Right of Children to Free and Compulsory Education Act, 2009.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2018. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

35 of 2009. **2.** In the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the principal Act), in section 2,— Amendment of section 2.

(a) in clause (c), for the words "six to fourteen years", the words "three to eighteen years" shall be substituted;

(b) in clause (n), after the word "imparting", the words "pre-school education and" shall be inserted.

Amendment
of section 3.

3. In section 3 of the principal Act, for the words "six to fourteen years", the words "three to eighteen years" shall be substituted.

Amendment
of section 4.

4. In section 4 of the principal Act, for the words "child above six years of age", the words "child above three years of age" shall be substituted.

Amendment
of section 8.

5. In section 8 of the principal Act, in clause (a), for the *Explanation* the following shall be substituted namely:—

“*Explanation.*— The term “compulsory education” means obligation of the appropriate Government to—

(i) provide free pre-school education and elementary school education to every child of the age of three to eighteen years; and

(ii) ensure compulsory admission, attendance and completion of pre-school education and elementary education by every child of the age of three to eighteen years.”

Amendment
of section 9.

6. In section 9 of the principal Act, in clause (d) for the words “up to the age of fourteen years”, the words “up to the age of eighteen years” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

India being the signatory to the United Nations Convention on the Rights of the Child (UNCRC), had committed to Article 28 of the UNCRC, made it incumbent on the State to provide elementary education compulsory and free to all. The foundation of schooling is laid in the early years between the ages of three to six years. These early years are regarded as the foundation years and critical for mental and emotional development of a child. The age group is significant for brain development and sets the foundation for sound and basic learning in later years. Hence, it is proposed that minimum age of children is to be reduced from six to three years so that this important age group is covered under the Right of Children to Free and Compulsory Act, 2009. Moreover, the existing school system in our country consists from elementary to plus two, accordingly, the maximum age of children for free and compulsory education be enhanced from fourteen to eighteen years.

Hence, this Bill.

NEW DELHI;
January 23, 2018.

NISHIKANT DUBEY

FINANCIAL MEMORANDUM

Section 7 of the principal Act makes it obligatory for the Central and State Governments to provide funds for carrying out provisions of the Act. The proposed amendments as given in clauses of the Bill lowers the entry level age from 6 to 3 years and increases the maximum age limit from 14 to 18 years of every child for free and compulsory education, thereby increasing the financial burden of the Central Government. The Bill, if enacted, would involve additional expenditure from the Consolidated Fund of India and it is very difficult to estimate the expenditure at this juncture as the same would depend upon the number of students added by the proposed amendment of the Act.

No non-recurring expenditure is likely to be involved.

BILL NO. 206 OF 2017

A Bill to provide for the imposition of a temporary cess to be levied on the foreign country income tax payments of ordinarily non-resident Indian citizens; the procedure for dealing with the collection of such cess, and to provide for the establishment of a Scholarship and Research Fund subject to service obligation and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Indian Diaspora and Education Infrastructure (Brain Drain Cess) Act, 2017.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (I) In this Act, unless the context otherwise requires,—

(a) "assessee" means—

(i) all non-resident Indian citizens residing or intend to reside in other countries, States and territories, notwithstanding of the meaning as defined under clause (6) of section 6 of the Income Tax Act, 1961; or

43 of 1961.

(ii) non-resident Indian citizens holding a valid work permit, if applicable; or

(iii) non-resident Indian citizens holding a valid immigrant visa, if applicable; or

(iv) non-resident Indian citizens working as part of a contract with foreign Governments, entities, and organizations, if applicable; or

(v) every person who is deemed to be an assessee under any provision of this Act; or

(vi) every person who is deemed to be an assessee in default under any provision of this Act;

(b) "assessment year" means the period of twelve months beginning on the 1st day of April every year, unless otherwise specified by the Central Government in this behalf;

(c) "Board" means the Indian National Scholarship and Research Board established under section 22;

(d) "host country" means the country of residence for the assessee in question;

(e) "income" as defined under clause (24) of the Income Tax Act, 1961 and shall apply to all assesseees;

43 of 1961.

(f) "Income-tax Officer" means a person appointed to be an Income-tax Officer under section 117 of the Income Tax Act, 1961;

43 of 1961.

(g) "India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, sea-bed and sub-soil underlying such waters, continental shelf, Exclusive Economic Zone or any other Maritime Zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 and the air space above its territory and territorial waters;

(h) "resident" means a person defined as resident under clause (42) of section 2 of the Income Tax Act, 1961;

43 of 1961.

(i) "non-resident citizens" means all Indian citizens who not defined as "non-resident" under clause (30) of section 2 of the Income Tax Act, 1961;

43 of 1961.

(j) "person" includes individuals; and

(k) "legal immigrant status" refers to, by the assessee, the obtaining of, *inter alia*, the following:—

(i) work permit;

(ii) immigrant visa;

(iii) Optional Period of Training (OPT) certificate;

(iv) Government contract;

(v) private entity contract;

(vi) private or non-profit organization contract;

(vii) International organization contract;

(viii) any other visa that allows for full employment; and

(ix) any other document issued in relation to legal employment in host country.

43 of 1961. (2) The words and expressions used and not defined in this Act but defined in the
22 of 2015. Income Tax Act, 1961 and the Undisclosed Foreign Income and Assets (Imposition of Tax) Act, 2015 shall have the meanings, respectively assigned to them in those Acts.

CHAPTER II

BASIS OF CHARGE

3. (1) There shall be charged on every assessee for every assessment year or until the year as provided in this Act, after the commencement of this Act, subject to the provisions of this Act, a cess in respect of his total foreign income tax liability of the previous year at the rate as provided under section 9. Charge of cess.

(2) The resulting revenue from the levy of the cess as mentioned under sub-section (1) and as collected by tax authorities under section 12 shall only be used for the purposes and in the manner as prescribed under section 24 and section 36.

4. (1) Every assessee who is non-resident citizen and is subject to the provisions of this Act shall be identified as: Identification of non-resident citizens.

(a) an assessee who migrate from India to another country, by obtaining legal immigrant status in the host country, through an official document issued by the host country, on a temporary or permanent basis, after the commencement of this Act, for upto five years since the date of migration;

43 of 1961. (b) an assessee's income of whom is subject to taxation, notwithstanding section 6 and 7 of the Income Tax Act, 1961, including any income accrued or is likely to be accrued within or outside the territory of India;

(2) Every assessee identified under sub-section (1) shall be contacted by the Ministry of External Affairs for the execution of the provisions of this Act which shall maintain a register of non-resident citizens as per provisions of section 7:

Provided that the employees of State Governments and Union territories as per the requirements of their job, who leave the territory of India for work related activities and Overseas Citizens of India (OCI) shall be excluded from being subject to the provisions of this Act:

Provided further that the Central Government shall, by notification in the Official Gazette, update or amend the list of persons to be excluded from the provision of this Act at any time after the commencement of this Act.

5. Every citizen, including ordinarily non-resident citizen, notwithstanding their status as an assessee, may voluntarily contribute to the Funds listed under section 24 or the Funds or trusts listed under section 8. Voluntary contribution to the Funds.

6. In the absence of notarized income tax returns filed by the assessee as per section 7, the following incomes shall be deemed to be received in the previous year :— Income received in previous year.

43 of 1961. (i) the annual accretion in the previous year to the balance at the credit of an employee participating in a recognised provident fund, to the extent provided in rule 6 of Part A of the Fourth Schedule to the Income Tax Act, 1961 and the corresponding law in the host country;

43 of 1961. (ii) the transferred balance in a recognised provident fund, to the extent provided in sub-rule (4) of rule 11 of Part A of the Fourth Schedule to the Income Tax Act, 1961 and the corresponding law in the host country;

(iii) the official figure cited in the filing of income tax returns made by the assessee, as obtained from the tax collection agency of the host country, as per the provision of section 24.

Registration. 7. Every assessee, upon obtaining legal immigrant status, as mentioned under section 4 shall,—

(a) register with the Ministry of External Affairs, as per provisions of Section 4;

(b) upon receiving income tax returns from the host country shall report to the Ministry of External Affairs a notarized copy of the income tax returns, along with the payment of cess, if applicable in such manner as may be prescribed.

Deductions for contributions to research and charity. 8. (1) In computing the total liability of an assessee through his notarized copy of his income tax returns as per provisions of section 7, there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2).

(2) The sums referred to in sub-section (1) shall be the following, namely:—

(a) any sum paid by the assessee in the previous year to a research association within the territory of India, which has as its object the undertaking of research in social sciences or statistical research or scientific research or to a University, college or other institution within the territory of India to be used for scientific research:

Provided that such association, University, college or institution is for the time being approved for the purposes of clause (ii) of sub-section (1) of section 35 of the Income Tax Act, 1961;

43 of 1961.

(b) any sum paid by the assessee in the previous year after furnishing the certificate referred to in sub-section (2) or sub-section (2A) of section 35CCA of Income Tax Act, 1961 from such association or institution within the territory of India—

43 of 1961.

(i) which has as its object the undertaking of any programme of rural development, to be used for carrying out any programme of rural development in India; or

(ii) which has as its object the training of persons for implementing programmes of rural development;

(c) any sum paid by the assessee in any previous year ending on or before the 31st day of March, 2002 to an association or institution, which has as its object the undertaking of any programme of conservation of natural resources or of afforestation, to be used for carrying out any programme of conservation of natural resources or of afforestation approved first time for the purposes of section 35CCB of the Income Tax Act, 1961;

43 of 1961.

(d) any sum paid by the assessee in any previous year ending on or before the 31st day of March, 2002 to such fund for afforestation as is notified by the Central Government under clause (b) of sub-section (1) of section 35CCB of the Income Tax Act, 1961;

43 of 1961.

(e) any sum paid by the assessee in the previous year to a rural development fund set up and notified by the Central Government for the purposes of clause (c) of sub-section (1) of section 35CCA of the Income Tax Act, 1961;

43 of 1961.

(f) any sum paid by the assessee in the previous year to the National Urban Poverty Eradication Fund set up and notified by the Central Government for the purposes of clause (d) of sub-section (1) of section 35CCA of the Income Tax Act, 1961;

43 of 1961.

(g) any sums paid by the assessee in the previous year as donations to—

(i) the National Defence Fund set up by the Central Government; or

(ii) the Jawaharlal Nehru Memorial Fund referred to in the Deed of Declaration of Trust adopted by the National Committee at its meeting held on the 17th day of August, 1964; or

(iii) the Prime Minister's Drought Relief Fund; or

(iv) the Prime Minister's National Relief Fund; or

(v) the National Children's Fund; or

(vi) any Zila Saksharta Samiti constituted in any district under the chairperson of the Collector of that district for the purposes of improvement of primary education in villages and towns in such district and for literacy and post-literacy activities; or

(vii) the National Blood Transfusion Council or to any State Blood Transfusion Council which has its sole object the control, supervision, regulation or encouragement in India of the services related to operation and requirements of blood banks; or

(viii) any fund set up by a State Government to provide medical relief to the poor; or

(ix) the Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants; or

(x) the Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996; or

(xi) the National Illness Assistance Fund; or

(xii) the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union territory, as the case may be;

(xiii) the National Sports Fund to be set up by the Central Government; or

(xiv) the National Cultural Fund set up by the Central Government; or

(xv) the Fund for Technology Development and Application set up by the Central Government; or

(xvi) the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted under sub-section (1) of section 3 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; or

44 of 1999.

(xvii) the Eastern Assam Social Habitat Welfare And Relief set up by the Central Government; or

(xviii) the Swachh Bharat Kosh, set up by the Central Government, other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013; or

18 of 2013.

(xix) the Clean Ganga Fund, set up by the Central Government, where such assessee is a resident and such sum is other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013; or

18 of 2013.

(xx) the National Fund for Control of Drug Abuse constituted under section 7A of the Narcotic Drugs and Psychotropic Substances Act, 1985; or

61 of 1985.

(xxi) any other fund or any institution to which this section applies; or

(xxii) the Government or any local authority, to be utilized for any charitable purpose; or

(xxiii) an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing, accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

(xxiv) the Government or to any such local authority, institution or association as may be approved in this behalf by the Central Government, to be utilized for the purpose of promoting family planning.

(3) No deduction shall be allowed under this section in respect of any sum exceeding the total cess liability of the assessee.

(4) Where a deduction under this section is claimed and allowed for any assessment year in respect of any payments of the nature specified in sub-section (2), deduction shall not be allowed in respect of such payments under any other provision of this Act for the same or any other assessment year.

Calculation of
cess.

9. (1) If the Central Government provides that the cess specified under section 3 shall be charged for any assessment year at any rate or rates, cess at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions (including provisions for the levy of additional cess) of this Act in respect of the total income tax payments of the previous year of every assessee, whereas upon the commencement of this Act, the cess rates as specified under the Schedule to this Act shall apply:

Provided that where by virtue of any provision of this Act, cess is to be charged in respect of the income tax payments for a period other than the previous year, cess shall be charged accordingly.

(2) In respect of income chargeable under sub-section (1), income-tax shall be deducted at the source or paid in advance, where it is so deductible or payable under any provision of section 24.

(3) The Tax authorities specified under section 11 shall receive all necessary information from the Ministry of External Affairs under the provisions of section 7 about the assessee for the execution of the provisions of this Act.

(4) Tax authorities specified under section 11 shall present an annual report, including the recommendations for cess rates, to the Central Government, which shall include:—

(a) comparative inflation between India and major host countries, as provided under section 18;

(b) foreign exchange rates, and the purchasing power parity between India and major host countries, as provided under section 18;

(c) revision of tax brackets for the imposition of cess, according to the change in income distribution of assesees; and

(5) The Central Government shall, by notification, amend the cess rates at any time.

Exemption for
tax relief
beneficiaries.

10. Every assessee obtaining tax-relief from host countries for taxes paid in India shall be exempted from the provisions of section 3, if the tax authorities, as specified under section 11, receives and verifies information as obtained under section 7.

Tax relief
upon re-entry.

11. (1) Every assessee returning to reside in India, within a period of ten years from the date of migration, on a permanent basis, shall receive the benefits of twenty per cent. rebate on the total cess paid by the assessee, if he files tax returns under the provisions of Income Tax Act, 1961,—

(a) an employee of the Central Government, a public or private company registered under the Indian Companies Act, 2013, organization, local or State Government, or non-

profit entity, and any similar entity or organization within the territory of India; or

(b) self-employed person within the territory of India;

(c) business owner or investor within the territory of India, as defined by the Income Tax Act, 1961.

43 of 1961.

(2) The Central Government shall, by notification, change the rebate on the total cess under the provisions of sub-section (1) in such manner as may be prescribed.

CHAPTER III

TAX MANAGEMENT

12. (1) The income-Tax authorities specified in section 116 of the Income Tax Act shall be the tax authorities for the purposes of this Act.

Tax
Authorities.

(2) Every Income-Tax authority shall in cooperation with the corresponding host country tax authority, exercise the powers and perform the functions of a tax authority under this Act in respect of any person within his jurisdiction, and subject to the provisions of sub-section (6).

(3) Subject to the provisions of sub-sections (4) and (6), the jurisdiction of a tax authority under this Act, in addition to the jurisdiction granted under the Income-tax Act, 1961 by virtue of orders or directions issued under section 120 of that Act (including orders or directions assigning the concurrent jurisdiction), will also include the jurisdiction over non-resident Indian citizens, subject to provisions of section 19.

(4) The tax authority having jurisdiction in relation to an assessee who has no income assessable to income-tax under the Income Tax Act shall be the tax authority having jurisdiction in respect of the area in which the assessee resides or carries on its business or has its principal place of business.

43 of 1961.

(5) Section 118 of the Income-tax Act, 1961 and any notification issued thereunder shall apply in relation to the control of tax authorities as they apply in relation to the control of the corresponding income-tax authorities, except to the extent to which said authorities may, by notification in the Official Gazette, otherwise direct in respect of any tax authority.

(6) The Tax authorities shall coordinate with the respective host country tax authorities either unilaterally or through the Ministry of External Affairs in the execution of the provisions of this Act.

(7) The Central Government, shall, by notification, make rules to update the jurisdiction of tax authorities, or establish a body exclusively for the purposes of executing the provisions of this Act.

13. (1) The tax authority may amend any order passed by it under this Act so as to rectify any mistake apparent from the record.

Rectification
of mistake.

(2) No amendment under this section shall be made after a period of four years from the end of the assessment year in which the order sought to be amended was passed.

(3) The tax authority shall not make any amendment, which has the effect of enhancing the cess liability owed under the provisions of section 3 or reducing a refund or otherwise increasing, the liability of the assessee under the provisions of Section 3 of this Act, unless the authority concerned has given to the assessee adequate opportunity for appeal.

(4) The tax authority concerned may make an amendment under this section—

(a) on its own motion; or

(b) on the application made to it by the assessee or, as the case may be, by the Assessing Officer.

(5) Any application received by the tax authority for amendment of an order shall be decided within a period of six months from the end of the month in which such application is received by it.

(6) In case where the order has been made in an appeal or revision, the power of the tax authority to amend the order shall be restricted to matters other than those decided in appeal or revision.

Notice of demand.

14. Any sum payable in consequence of any order made under this Act shall be demanded by a tax authority by serving upon the assessee a notice of demand in such form and manner as provided under section 19 and section 42.

Recovery of taxes.

15. The tax authorities shall execute the provisions of this Act in relation to the recovery of cess liability from assessee as per the Central Acts passed in accordance the provisions of section 18.

Advance payment of taxes.

16. The tax authorities shall, in coordination with the Ministry of External Affairs, provide for advance payment of cess liability for assessee subject to the provisions of sections 3, 7, and 8, through a collection mechanism determined by the tax authorities under section 17.

Differences in tax brackets.

17. The tax authorities shall, by notification make rules in addition to the provisions of section 12, 13, 14, 15, 16, 17, 18, 19 and 21 of this Act.

Revision of tax brackets and tax rates.

18. (1) The tax authorities, as identified under the provisions of section 12 shall make recommendations to the Central Government on the revision of cess rates and tax brackets for the purpose of executing the provisions sub-sections (3) and (4) of section 9.

(2) The Central Government shall, by notification, make rules according to the recommendations sent by the tax authorities, for the purpose of executing the provisions of this Act.

CHAPTER IV

COOPERATION WITH DESTINATION COUNTRIES

Agreements with host countries.

19. (1) The Central Government may enter into an agreement with the Government of any other country for—

(a) recovery of tax under this Act and under the corresponding law in force in that country:

(b) setting up mechanism for the cooperation between the tax authority under the provisions of section 12 and the corresponding tax collection authority in the host country:

(c) granting of relief in respect of —

(i) income on which tax has been paid both under this Act and under the corresponding law in force in that country: or

(ii) cess chargeable under this Act:

(d) avoidance of double taxation of same income under this Act and under the corresponding law in force in that country;

(e) exchange of information for the execution of the provisions of this Act;

(f) exchange of information for the prevention of evasion or avoidance of tax on foreign income chargeable under this Act or under the corresponding law in force in that country, or investigation of cases of such evasion or avoidance:

(g) carrying out any other purpose of this Act not expressly covered under clauses (a) to (d) or the corresponding law in force in that country.

(2) The Central Government may enter into an agreement with the Government of any specified territory outside India for the purposes specified under sub-section (1).

(3) The Central Government may, by notification, make such provisions as may be necessary for implementing the agreements referred to in sub-sections (1) and (2).

(4) Any specified association in India may enter into an agreement with any specified association in the specified territory outside India for the purposes of sub-section (1) and the Central Government may by notification make such provisions as may be necessary for adopting and implementing such agreement.

20. Any term used but not defined in this Act or in the agreement referred to in sub-sections (1), (2) or sub-section (4) of section 24 shall, unless the context otherwise requires, and is not inconsistent with the provisions of this Act or the agreement, have the meaning assigned to it in the notification issued by the Central Government and such meaning shall be deemed to have effect from the date on which the said agreement came into force.

Disambiguation
of authority.

21. None of the provisions of this Act, or any other rules made thereunder shall deny any citizen of India, the freedom to emigrate from the country, subject to reasonable restrictions, including the provisions of section 37 and the provisions under the Indian Penal Code, 1860.

Freedom of
emigration.

45 of 1860.

22. (1) Where on transfer of assets by virtue or in consequence whereof, either alone or in conjunction with associated operations, any income is payable to an assessee, the following provisions shall apply—

Tax liability
for transfer
from resident
to an assessee.

(a) where any resident has, by means of any such transfer, either alone or in conjunction with associated operations, acquire any rights by virtue of which he has, within the meaning of this section, power to enjoy, whether forthwith or in the future, any income of an assessee which, if it were income of the first-mentioned person, may be chargeable to income-tax, that income shall, whether it may or may not have been chargeable to income-tax apart from the provisions of Section 93 of the Income Tax Act, be deemed to be income of the first-mentioned person for all the purposes of this Act;

(b) where, whether before or after any such transfer, any such resident receives or is entitled to receive any capital sum the payment whereof is in any way connected with the transfer or any associated operations, then any income which, by virtue or in consequence of the transfer, either alone or in conjunction with associated operations, has become the income of an assessee shall, whether it may or may not have been chargeable to income-tax apart from the provisions of Section 93 of the Income Tax Act, be deemed to be the income of the first-mentioned person for all the purposes of this Act.

43 of 1961.

(2) Where any person has been charged to cess on any income deemed to be his under the provisions of this section and that income is subsequently received by him, whether as income or in any other form, it shall not again be deemed to form part of his income for the purposes of this Act.

(3) The provisions of this section shall not apply if the resident in sub-section (1) shows to the satisfaction of the Assessing Officer that—

(a) neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation; or

(b) the transfer and all associated operations were *bona fide* commercial transactions and were not designed for the purpose of avoiding liability to taxation.

CHAPTER V

INDIAN NATIONAL SCHOLARSHIP AND RESEARCH FUND

Collection and
distribution
authorities.

23. (1) With effect from such date as the Central Government may, by the notification in the Official Gazette, specify in this behalf, there shall be established a Board to be called as the Indian National Scholarship and Research Board.

(2) The Board shall consist of,—

(a) Union Minister of Human Resource Development, Chairperson, *ex-officio*;

(b) the Secretary, Union Ministry of Human Resource Development; member, *ex-officio*;

(c) the Chairperson, University Grants Commission, member, *ex-officio*;

(d) three persons one to represent the Union Ministry concerned with technical education, another to represent the Union Ministry of Finance and the third to represent any other Union Ministry to be nominated by the Central Government in such manner as may be prescribed, Members;

(e) three Members of Parliament, of whom two shall be elected by the House of the People from among its members and one by the Council of States from its members, members;

(f) two members to be nominated by the State Governments, on a rotational basis, member;

(g) three other members having expertise in the field to be nominated by the Ministry of Human Resource Development on a yearly basis, member:

Provided that at least four members of the Board shall be women:

Provided further that one of the person nominated under clause (d) shall act as the member-Secretary of the Board.

(3) The Board shall meet at least once a month to discuss the progress of the implementation of the provisions of this Chapter, and the minutes of the meeting shall be made available to the public on the website of Ministry of Human Resource Development within one week of the meeting.

(4) The Board shall, with its power by order, make rules in addition to the provisions of sections 24, 25 26, 27, 28, 29 and 34 of this Act.

Constitution
of funds.

24. (1) The Central Government shall, by notification in the Official Gazette, constitute the following funds, with an initial corpus of not less than fifty per cent. of the tax revenue generated from the cess imposed under section 3 and any additional funds where the Central Government may allocate from time to time:—

(a) National Scholarship Fund of India;

(b) International Scholarship Fund of India;

(c) National Research Grant Fund of India;

(2) The corpus Fund in the National Scholarship Fund of India constituted under sub-section (1) shall be allocated by the Board towards need-based merit scholarships, as per the provisions of section 25 and section 26 in Universities within the territory of India as per the provisions of section 27 to eligible Indian citizens, if,—

(a) the student enrolls in a field of study prescribed under section 30 in one of the Universities listed under section 27 of this Act;

(b) the student signs an agreement with the Board, to be administered by the Ministry of Human Resource Development, to complete a service obligation, as provided under section 32 within the territory of India, immediately upon completion of the field of study mentioned under clause (a).

(3) The corpus fund in the International Scholarship Fund of India constituted under sub-section (1) shall be allocated by the Board towards international education scholarships, as per the provisions of section 25 and 26 in Universities outside the territory of India as per the provisions of section 28 to eligible Indian citizens, if,—

(a) the student enrolls in a field of study prescribed under section 30 in one of the scholarship programs in the universities listed under section 28 of this Act;

(b) the student signs an agreement with the Indian National Scholarship and Research Board, to be administered by the Ministry of Human Resource Development, to complete a service obligation, as provided under section 32 within the territory of India, immediately upon completion of the field of study mentioned in clause (a).

(4) The corpus fund in the National Research Grant Fund of India shall be allocated by the Board in a manner prescribed under section 33.

25. (1) The Board shall determine the recipients of the need-based scholarship, established under the sub-section (2) of section 24 in a manner that considers, *inter-alia*, the following criteria, only with adequate material evidence, as determined by rules created by the Board after the commencement of this Act:—

Need based scholarship distribution.

(a) financial ability (or inability) to pay the tuition, room and board fees of the university;

(b) the academic rank obtained in the corresponding entrance exam or higher secondary school examination results;

(c) the field of study undertaken under section 30.

(2) The Board shall, by notification, add any other criteria under sub-section (1) which it claims fit.

(3) The financial ability (or inability) mentioned in clause (a) of sub-section (1) shall be determined by the Board considering, among others, the annual income of the family, movable assets and number of dependents in the family in relation to the total cost of attendance of the university or institute mentioned under section 27 and 29.

26. The Board shall, within its powers, in coordination with the administration of the universities listed under section 27, provide for reservations of seats in universities, in fields of study prescribed under section 30, separately for the beneficiaries of the National Scholarship Fund of India.

Reservation.

27. The provisions of sub-section (2) of Section 23 shall apply to the following universities in India, subject to change by the Central Government, by order, at any time after the commencement of this Act, notwithstanding the provisions in Institutions of Technology Act, 1961, The Central Educational Institutions (Reservation in Admission) Act, 2006, The University Grants Commission Act, 1956. National Institutes of Technology Act, 2007, and any such acts that may arise from the changes to this Section made by the Board:

Eligible universities in India.

(1) Indian Institute of Technology, Madras;

(2) Indian Institute of Technology, Delhi;

(3) Indian Institute of Technology, Kharagpur;

(4) Indian Institute of Technology, Bombay;

59 of 1961.
5 of 2007.
3 of 1956.
29 of 2007.

- (5) Indian Institute of Technology, Kanpur;
- (6) Indian Institute of Technology, Roorkee;
- (7) Birla Institute of Technology and Science;
- (8) Indian Institute of Technology, Guwahati;
- (9) National Institute of Technology, Tiruchirappalli;
- (10) National Institute of Technology, Warangal;
- (11) Indian Institute of Science, Bangalore;
- (12) Jawaharlal Nehru University, New Delhi;
- (13) University of Delhi;
- (14) Indian Institute of Management, Bangalore;
- (15) Indian Institute of Management, Ahmedabad;
- (16) Indian Institute of Management, Calcutta;
- (17) National Law School of India University, Bangalore;
- (18) Nalsar University of Law, Hyderabad;
- (19) National Law University, Jodhpur;
- (20) West Bengal National University of Juridical Sciences, Kolkata.

Scholarship
abroad.

28. The Board shall, within its power, in accordance with the universities listed under section 29, set up undergraduate and postgraduate private scholarship funds to a specified number students studying abroad according to the rules prescribed by the Board, in the respective universities, in fields of study specified under section 30 according to the administration of the university and not in contradiction of this Act or any other Act, to Indian citizens in accordance with the provisions of section 24.

Eligible
universities
abroad.

29. The provisions of section 28 of Chapter V shall apply to the following universities outside India, subject to the change made by the Central Government, by order, at any time after the commencement of this Act, notwithstanding any such acts that may arise from the changes to this Section made by the Central Government:

- (1) Harvard University, United States of America;
- (2) Yale University, United States of America;
- (3) Columbia University, United States of America;
- (4) Stanford University, United States of America;
- (5) Princeton University, United States of America;
- (6) ETH Zurich Swiss Federal Institute of Technology Zurich, Switzerland;
- (7) Massachusetts Institute of Technology, United States of America;
- (8) University of Oxford, United Kingdom;
- (9) University of Cambridge, United Kingdom;
- (10) London School of Economics, United Kingdom;
- (11) University of Chicago, United States of America;
- (12) California Institute of Technology, United States of America;
- (13) University of California, Berkeley, United States of America;
- (14) University of Pennsylvania, United States of America;

- (15) University of California, Los Angeles, United States of America;
- (16) University College London, United Kingdom;
- (17) Johns Hopkins University, United States of America;
- (18) Duke University, United States of America;
- (19) Cornell University, United States of America;
- (20) Northwestern University, United States of America;
- (21) University of Michigan, United States of America;
- (22) University of Toronto, Canada;
- (23) Carnegie Mellon University, United States of America;
- (24) National University of Singapore, Singapore;
- (25) University of Edinburgh, United Kingdom;
- (26) Peking University, People's Republic of China;
- (27) LMU Munich, Germany;
- (28) New York University, United States of America;
- (29) Georgia Institute of Technology, United States;
- (30) University of Hong Kong, Hong Kong.

30. The Board shall determine the eligible fields of study, subject to a of yearly review by the Board under the provision of section 31, for the executions of provisions of this Chapter, which shall include. *inter-alia*, undergraduate, post-graduate and research degrees in these broad disciplines:

Eligible fields of study.

- (1) Science, Technology, Mathematics and Engineering (STEM);
- (2) Law, Government, Public Policy and Politics;
- (3) Research in Social Sciences;
- (4) Medical Sciences, Health Administration, and Biotechnology.

31. The Board shall have the power to add or remove fields of study including the broad disciplines listed under section 30.

Scope of expansion of eligible fields of study.

32. The recipients of the scholarship fund as provided under sub-sections (2) and (3) of section 23, shall meet the following service requirement obligation requirement for a minimum of five years, subject to revision by the Board:

Service obligation requirement.

- (a) the recipient must reside within the territory of India;
- (b) the recipient shall, if applicable, be employed in a multinational corporation, only if the income accrued from the employment is within the territory of India;
- (c) the recipient shall, if applicable, be employed in the Central Government of India in Public sector undertakings, or in any company registered under the Companies Act, 2013;
- (d) The recipient shall, if applicable, be self-employed, in a partnership, sole-proprietor, partial or full owner of a company within the territory of India;
- (e) any economic or non-economic activity within the territory of India as deemed eligible by the Board:

Provided that the following exceptions shall apply to the service obligation requirement, if after the,—

(a) the recipient has obtained a short-term research and development fellowship, or any work-related project, on-site visit, assignment or a similar position, in a reputed international university, organization, or entity, for a period of not less than two years;

(b) the recipient has been admitted into a post-graduate program or research degree program in a reputed international university, the duration of said program shall not be longer than six years.

Research fund.

33. The Board shall, within its powers, constitute a Fund to be known as Research Grant Fund of India to allocate the funds in the research projects taking place in universities, public and private institutions within the territory of India through a public competitive selection process, subject to revision by the Board, as per the selection criteria listed under section 34.

Selection criteria.

34. The Board shall consider, among other factors as determined by the Board, the following criteria in the selection of research projects under the provision of sections 24 and 33:—

(a) importance to scientific advancement;

(b) importance to poverty alleviation;

(c) importance to national defence.

Compliance and penalties.

35. The Board shall make rules by order, in order to provide for the expansion of the Fund, to revise and update the eligible institutions, individuals and recipients, to provide for strict compliance policies with penalties and other amendments to this Sections that the Board shall deem necessary, only through a unanimous decision by the members of the Board.

CHAPTER VI

PROVISIONS REGARDING CAPITAL CREATION

Distribution of funds to the Fund of Funds for Startups.

36. (1) The Fund for startups, as established by the Start Up India Action Plan by the Central Government, shall receive, a predetermined proportion by the Central Government, but not less than forty per cent. of the tax revenue generated from the cess imposed under section 3 and any additional funds which the Central Government may allocate, from time to time.

(2) The Central Government shall, by notification, make rules in addition to sub-section (1) to specifically distribute the funds to startups functioning in the fields prescribed in section 30.

CHAPTER VII

PENALTIES AND PROSECUTIONS

Notification in passport.

37. If an assessee has failed to comply with the provision of sections Notification in 12, 14, 15, 19, 24, and 33, after reasonable effort has been made to inform passport, the assessee of his failure to comply through the Central Government of India or the respective Government of the host country and a grace period of six months has lapsed, a notification on his passport shall be issued by the Ministry of External Affairs, which shall prevent him from extending his visa status in any foreign country, as per provisions under section 19, and prevent him from leaving the territory of India, if applicable:

Provided that the notification may if removed within a period of twenty-four hours if—

(1) The Central Board of Direct Taxes, after review of the Online- Appeal Form, as set up under section 45, dismisses the notification; or

(2) payment of tax plus penalty under section 38 is made;

(3) medical emergency as specified under section 39;

(4) the provisions of the Act, as mentioned under this section, are fulfilled, and an application for removal has been processed by the Indian National Scholarship and Research Board.

38. The Assessing Officer may, direct that, in a case where tax has been computed under sections 12 and 19, in respect of foreign income and tax payments, and the assessee has failed to pay his obligation, if any, as identified by the authorities under section 12, he shall pay by way of penalty, in addition to tax—

Additional
Penalty.

(1) twenty-five per cent, tax penalty on the failed tax payment if paid within six months of non-payment of tax payment;

(2) seventy five per cent, tax penalty, on the failed tax payment if paid within one year of non-payment of tax payment;

(3) three times the failed tax payment, or a surcharge of \$10,000, whichever is higher, upon reentry into the country.

39. No penalties provided under sections 37, 38, and 41 of this Act shall apply of,—

Exceptions for
special
circumstances.

(a) a medical emergency for the assessee or an immediate family member, as ascertained by medical professionals, or if the assessee produces a verifiable medical certificate proving requirement of travel either to and from the country, then a temporary removal of the notification under section 37 shall apply for thirty calendar days and upon the cessation of said period thirty days the notification will automatically be reapplied; or

(b) a medical emergency requires immediate significant medical expenses, and the assessee produces (i) medical certificate proving requirement of travel (ii) medical certificate showing significant expenses the a temporary removal of the notification, allowing international travel, shall apply for thirty calendar days and upon the cessation of said period of thirty days the notification will automatically be reapplied.

43 of 1961

40. Notwithstanding clause (6) of section 6 of the Income-tax Act, an assessee is required to furnish a return of his income for any previous year, notwithstanding sub-section (1) of section 139 of the Income-tax Act or by the provisions to that sub-section, and who at any time during such previous year.

Disclosure of
income and
taxes.

43 of 1961

(i) held any asset (including financial interest in any entity) located outside India as a beneficial owner or otherwise; or

(ii) was a beneficiary of any asset (including financial interest in any entity) located outside India; or

(iii) had any income from a source located outside India, and fails to furnish such return before the end of the relevant assessment year, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten per cent. of the value of such asset:

Provided that this section shall not apply in respect of an asset, being one or more bank accounts having an aggregate balance which does not exceed a value equivalent to five hundred thousand rupees at any time during the previous year.

41. The provisions of sections 44, 45, 46, 47, 52, 53, 54, and 55 the Back Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

Application of
Act No. 22 of
2015.

CHAPTER VIII

GENERAL PROVISIONS

Service of
notice
generally.

42. (1) The service of any notice, summons, requisition, order or any other communication under this Act (herein referred to in this section as generally communication") may be made by delivering or transmitting a copy thereof, to the person named therein,—

(a) by post or by such courier service as may be approved by the assigned tax authorities, as mentioned under section 12;

(b) in such manner as provided under the Code of Civil Procedure, 1908 for the purposes of service of summons; 5 of 1908

(c) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000; or 2 of 2000

(d) by any other means of transmission of documents, including fax message or electronic mail message, as may be prescribed.

(2) The tax authorities mentioned in section 12 of this Act may make rules providing for the addresses including the address for electronic mail or electronic mail message to which the communication referred to in sub-section (1) may be delivered or transmitted to the person named therein.

(3) In this section, the expressions "electronic mail" and "electronic mail message", shall have the same meanings as assigned to them in the Explanation to section 66A of the Information Technology Act, 2000. 1 of 2000

Authentication
of tax
authority.

43. (1) A notice or any other document required to be issued, served or given for the purposes of this Act by any tax authority shall be authenticated by that authority.

(2) Every notice or other document to be issued, served or given for the purposes of this Act by any tax authority shall be deemed to be authenticated, if the name and office of a designated tax authority is printed, stamped or otherwise written thereon.

(3) In this section, a designated tax authority shall mean any tax authority authorized by the Central Board of Direct Taxes to issue, serve or give such notice or other document after authentication in the manner as provided in sub-section (2).

Rounding off
of income,
value of asset
and tax.

44. (1) The amount of cess liability computed in accordance with Section 3 of this Act shall be rounded off to the nearest multiple of one hundred rupees.

(2) Any amount payable or receivable by the assessee under this Act shall be rounded off to the nearest multiple of ten rupees.

(3) The method of rounding off under sub-section (1) or under sub-section (2), shall be such as may be prescribed.

Return of
income not to
be deemed
invalid.

45. No return of income, assessment, notice, summons or other proceeding, furnished or made or issued or taken or purported to have been furnished or made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceeding if such return of income, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.

Cognizance of
offence.

46. No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act.

47. Where, under any provision of this Act, the approval of the Central Government or the tax authority as defined under Section 11 of this Act, is required to be obtained before a specified date, it shall be open to the Central Government or, as the case may be, the authority to condone, for sufficient cause, any delay in obtaining such approval.

Condone delays in approval.

43 of 1961

48. Notwithstanding anything contained in the Income Tax Act, 1961, all information contained in any statement or return made or furnished under the provisions of that Act or obtained or collected for the purposes of said Act may be used for the purposes of this Act.

Income Tax papers to be available for the purpose of this Act.

43 of 1961

49. The Central Government shall, upon the commencement of this Act, pass necessary amendments to sections 5 and 6 of the Income Tax Act, 1961, if any such amendments are required, for the purpose of executing the provisions of this Act.

Amendment of Income Tax Act, 1961.

50. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Act come into force.

(2) Every order made under this section shall be laid before each House of Parliament.

51. (1) The Central Board of Direct Taxes, in compliance with Section 11, Section 12 and Section 18 of this Act may, subject to the approval of the Central Government, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:—

(a) the manner of determination of the value of cess liability referred to in section 3;

(b) the tax authority to be prescribed for any of the purposes of this Act;

(c) the form and manner of service of a notice of demand under section 51 ad 54;

(d) the form in which any appeal, revision or cross-objection may be filed under this Act, the manner in which they may be verified and the fee payable in respect thereof;

(e) the form in which the Assessing Officer may draw up the statement of tax arrears under all Sections under Chapter III of this Act;

(f) the manner in which the sum is to be paid to the credit of Central Government under the provisions of this Act;

(g) the formation, rules and regulations for an Online Appeal Form.

(3) The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or any of them from a date not earlier than the date of commencement of this Act and no retrospective effect shall be given to any rule so as to prejudicially affect the interest of assesseees.

(4) The Central Government shall cause every rule made under this Act to be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the

successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The issue of growing emigration of high-skilled labourers from India to highly developed countries has increased manifold in recent times, most of the times, such non-resident fails to file return of income tax. The bill also directs the Central Government to use the revenue generated from the said cess in the creation of a scholarship and research fund and an addition of funds to the Fund for Funds for Startups (FFS) set up by the Central Government.

High-skilled labourers in Science, Technology, Engineering and Mathematics (STEM) industries possess a higher degree of mobility as compared to every other worker, and therefore are able to easily relocate to countries that offer them the highest salaries. While as Indian citizens they are entitled to the freedom of movement, and as guaranteed by the UN declaration of human rights, they have the right to emigrate from their own country, high-skilled emigrants create a pressing public policy crisis in India.

First, by moving out of the country, the high-skilled emigrants deprive India of innovation, research and industrial development that gets created in the developed destination countries. Second, they create a massive loss in tax revenue that is essential to provide to measures of poverty alleviation, and for the development of the country. Therefore, in order to justifiably impose the responsibility that the emigrants bear to contribute to the growth of the country, but at the same time respect their right to emigrate, a globally-levied domestic development cess is required, the need, is, therefore to introduce a brain drain cess on such non-resident Indian citizen.

The Brain drain cess is justified on following:

(i) Non-Resident Indians (NRIs) have the rights extended to every citizen of India including, the right to vote in local, State and national elections. However, under the Income Tax Act, these residents do not pay taxes to the Indian Government if they live outside India for more than 180 days per year. This has led to a situation of "representation without taxation", meaning they enjoy the benefits of an Indian citizenship without the obligations that come with it.

(ii) the Indian Government subsidizes science and technology education through institutions like the Indian Institute of Technology, Indian Institute of Management, and other public universities in order to cultivate domestic technological innovation and research. However, as argued above, the engineers and scientists that graduate from these universities access their right to emigrate to better opportunities and move out of the country, rendering the public investment without fruit. This could address the particular problem by instituting a service obligation requirement for recipients of scholarships and research funds, which requires them to reside within the territory of India for a specified period of time. This is done only to recipients of scholarships, similar to a policy in Singapore, because a large-scale imposition of such a service obligation would be unconstitutional.

(iii) High-skilled emigration creates a large distributional issue in taxation within the country. The NRI population, who typically fall in the top 1% of the income distribution in the country, fail to pay their fair share of taxes, leaving more of the tax burden on the poorer parts of the country. By including a cess that is applied to non-resident Indians, poorer Indians can be provided with a tax relief, thereby making our tax policy more just.

The revenue arising from the cess, estimated to be in the vicinity of ten thousand crore rupees, can then be used to address serious issues within our country that contributes to the reasons high-skill labourers have when choosing to leave the country, such as, *inter-alia*, lack of high-paying engineering and technology jobs and lack of research and development funding and infrastructure.

Hence, this Bill.

NEW DELHI;
July 3, 2017.

RABINDRA KUMAR JENA

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 (1) AND 274 (1)
OF THE CONSTITUTION

[Copy of Letter No. 370152/51/2017-TPL dated 13 November, 2017 from Shri Arun Jaitley, Minister of Finance and Corporate Affairs to the Secretary-General, Lok Sabha].

The President, having been informed of the subject matter of the Indian Diaspora and Education Infrastructure (Brain Drain Cess) Bill, 2017 by Shri Rabindra Kumar Jena, Member of Parliament, recommends under articles 117(1) and 274(1) of the Constitution, the introduction of the Bill in Lok Sabha.

FINANCIAL MEMORANDUM

Clause 23 of the Bill seeks to provide for establishment of Indian National Scholarship and Research Board. It also provides for appointment of members to the Board. The Bill therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees twenty crore would be involved as recurring expenditure per annum.

A non-recurring expenditure of rupees ten crore is also likely to be involved.

MEMORANDUM OF DELEGATED LEGISLATION

Sub-section (3) of Section 6 empowers the Ministry of External Affairs to make rules for carrying out the provisions of that Section and make rules in addition to the provisions of that Section.

Sub-section (2) of Section 10 empowers the Central Government to change the rebate on the total cess under the provisions of sub-section (1) of Section 10 and add rules in addition to Section 10.

Sub-section (7) of Section 11 empowers the Central Government to make rules in addition to Section 11, to update the jurisdiction of tax authorities, or establish a body exclusively for the purposes of executing the provisions of this Act.

Section 16 empowers the tax authorities to make rules in addition to the provisions of Section 11, Section 12, Section 13, Section 14, Section 15, Section 16, Section 17, Section 18 and Section 20 of this Act.

Sub-section (2) of Section 17 empowers the Central Government to make rules according to the recommendations sent by the tax authorities, for the purpose of executing the provisions of this Act.

Sub-section (5) of Section 22 empowers the Indian National Scholarship and Research Board to make rules in addition to the provisions of Section 23, Section 24, Section 25, Section 26, Section 27, Section 28 of this Act, as provided under Section 34 of this Act.

Section 34 empowers the Indian National Scholarship and Research Board to make rules in addition to all Sections of Chapter V of this Act in order to provide for the expansion of the Fund, to revise and update the eligible institutions, individuals and recipients, to provide for strict compliance policies with penalties and other amendments to this Sections that the Board shall deem necessary, only through a unanimous decision by the members of the Board.

Sub-section (2) of Section 35 empowers the Central Government to, by notification, make rules in addition to Section 35(1) to specifically distribute the funds to start-ups functioning in the fields prescribed in Section 29 of this Act

Sub-section (2) of Section 41 empowers the tax authorities mentioned in Section 11 of this Act to make rules providing for the addresses including the address for electronic mail or electronic mail message to which the communication referred to in sub-section (1) may be delivered or transmitted to the person named therein.

Sub-section (1) of Section 44 empowers the Central Board of Direct Taxes, in compliance with Section 11, Section 12 and Section 18 of this Act, subject to the approval of the Central Government, by notification in the Official Gazette, to make rules for carrying out the provisions of this Act.

As the matter in respect of which rules may be made are generally matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself, the delegation of legislative power is, therefore, of a normal character.

BILL NO. 278 OF 2017

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

- | | |
|---------------------------------------|---|
| Short title and commence- ment. | <p>1. (1) This Act may be called the Representation of the People (Amendment) Act, 2017.</p> <p>(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.</p> |
| Amendment of section 2. | <p>2. In section 2 of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in sub-section (1),—</p> <p>(a) after clause (bb), the following clause shall be inserted, namely:—</p> <p>"(bbb) "constitution of an association or body or political party" means the memorandum or rules and regulations of the association or body or political</p> |

43 of 1951.

party, as the case may be, containing particulars provided under clauses (a) to (g) of sub-section (4) of section 29A;

(b) after clause (e) the following clauses shall be inserted, namely:—

‘(ea) "ineligible donor" means:—

(i) a Government company, as defined in section 29B;

(ii) a company that does not comply with the requirements of section 182 of the Companies Act, 2013; or

(iii) any foreign source, as defined under clause (e) of sub-section (1) of section 2 of the Foreign Contribution (Regulation) Act, 1976;

(eb) "particulars of contribution" shall be the amount of the contribution received by the political party or the candidate from the political party; the name, address, and PAN card details, if applicable, of the donor; the type of contribution, whether cash, cheque, bank transfer or gifts in kind; and the date on which the contribution was received; and

(c) after sub-clause (h) the following sub-clause shall be inserted, namely:—

‘(ha) “qualified chartered accountant” means a member of a panel of chartered accountants, selected for the purpose of inspecting accounts related to the election by the Comptroller and Auditor General;’.”

3. In section 10A of the principal Act,—

(i) after the words "an account of election expenses", the words "and particulars of contribution" shall be inserted; and

(ii) in the long line, for the words "a period of three years" the words "a period of five years" shall be substituted.

Amendment
of section
10A.

4. In section 29A of the principal Act,—

(a) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) The application under sub-section (1) shall be accompanied by a copy of the constitution of the association or body, by whatever name called and shall contain—

Amendment
of section
29A.

(a) the name of the association or body and, if applicable, any acronyms or short forms of this name;

(b) the mission, aims and objectives of the association or body;

(c) the conditions, procedures and requirements for initiating and maintaining membership in the association or body;

(d) the rights, duties and obligations of membership in the association or body;

(e) the general organization and powers of internal divisions of the association or body, including governing bodies and local bodies at the national, state, district, ward and block levels, by whatever name called;

(f) the procedure according to which the association or body shall decide the appointment of its president, treasurer, secretary, and other office-bearers;

(g) the procedure according to which the association or body shall elect candidates to stand in local, state and national elections;

(h) the procedure according to which general body meetings can be requisitioned and conducted;

(i) the financial structure of the association or body and the procedure according to which budgetary decisions are enacted;

(j) a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India; and

(k) such other matters as may be deemed fit by the Election Commission.";

(b) in sub-section (9), after the words "name, head office, office-bearers, address" the word ", constitution" shall be inserted; and

(c) after sub-section (9), the following sub-section shall be inserted, namely:—

"(10) Where the Election Commission is satisfied that a registered National or State political party has failed, refused, or defied, by its conduct or otherwise, to observe the lawful directives issued by the Commission, including but not limited to, the provisions of the Model Code of Conduct for Guidance of Political Parties and Candidates as issued by the Commission in January, 1991 or as amended by it thereafter, the Commission may either suspend or withdraw its registration of such party, upon accounting for all available facts and circumstances and giving the party subject to such penalty a reasonable opportunity of being heard in this regard."

Insertion of new section 29A.

Constitution of a political party to be made available in public domain by the Election Commission.

Substitution of new sections for section 29C.

Maintenance, audit and publication of accounts by political parties.

Declaration and publication of contribution received by political parties.

5. After section 29A of the principal Act, the following section shall be inserted, namely:—

"29AA. The Election Commission shall make publicly available, through electronic and print media, the constitution submitted by each political party under sub-section (5) of section 29A and shall ensure that constitution of a political party is available for as long as the party is registered."

6. For section 29C of the principal Act, the following sections shall be substituted, namely:—

"29C. (1) Every recognised political party shall maintain, according to the financial year, complete and true accounts of all amounts received and expenditure incurred by it.

(2) Every political party shall submit the accounts maintained under sub-section (1) to the Election Commission within six months of the close of each financial year, duly audited by a qualified chartered accountant.

(3) The Election Commission shall make publicly available, through electronic and print media, the accounts submitted by each political party under sub-section (2).

(4) The Election Commission shall ensure that the accounts submitted under sub-section (2) are available for five years after their submission for public inspection, upon the payment of the prescribed fee.

29D. (1) The treasurer of a political party or any other person authorised by the political party in this behalf shall, in each financial year, prepare a report in respect of the following, namely:—

(a) the particulars of any cumulative contribution in excess of twenty thousand rupees received by such political party from any eligible person in that financial year;

(b) the particulars of any cumulative contribution in excess of fifty thousand rupees received by such political party from any eligible company in that financial year;

Explanation.—For the purposes of this section, a "cumulative contribution" shall be the sum of all donations on behalf of any eligible person or company to a political party within the given financial year.

(2) The report under sub-section (1) shall be in such form as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1), the treasurer of a political party or any other person authorised by the political party in this behalf shall, in the report referred to in sub-section (1), disclose the particulars of any contribution received from any eligible person or company if such contribution received by the political party in that financial year exceeds twenty crore rupees or twenty per cent of total contributions, whichever is less.

(4) The report for a financial year under sub-section (1) shall be submitted by the treasurer of a political party or any other person authorised by the political party in this behalf before the due date for furnishing a return of its income of that financial year under section 139 of the Income-tax Act, 1961 to the Election Commission, having been duly audited by a qualified chartered accountant.

(5) The Election Commission shall make publicly available, through electronic and print media, the report submitted by each political party under sub-section (1).

(6) The Election Commission shall ensure that the reports submitted under sub-section (1) are available for five years after their submission for public inspection, upon the payment of the prescribed fee.

29E. (1) Every political party contesting an election shall, within thirty days after the date of an election, lodge with the Election Commission an account of its election expenses, which shall be a true copy of such account maintained by the political party.

Explanation.—(1) The payment of any election expenditure over twenty thousand rupees shall be made by the political parties *via* crossed account payee cheque or draft or bank transfer.

Declaration and publication of election expenditure by the political parties.

(2) The account under sub-section (1) shall be in such form as may be prescribed.

(3) The Election Commission shall make publicly available, through electronic and print media, the accounts of election expenses and contributions submitted by each contesting candidate or their election agent under sub-section (1).

(4) The district election officer shall ensure that the aforementioned accounts are available for five years after their submission for public inspection, upon the payment of the fee prescribed under Rule 88 of the Conduct of Election Rules, 1961.

29F. (1) Where the Election Commission is satisfied that a political party, without justification, has failed to lodge audited accounts under section 29C, a contribution report under section 29D, or an election expenditure report under section 29E with the Election Commission within such time and manner as prescribed, such political party:—

Penalty.

(a) notwithstanding anything contained in the Income-Tax Act, 1961, shall not be entitled to any relief under that Act in the given financial year;

(b) shall be liable to a penalty of twenty five thousand rupees for each day of non-compliance, up to a period of ninety days:

Provided that if default on payment of penalty or lodging of accounts continues beyond a period of ninety days, the Election Commission shall

43 of 1961.

43 of 1961.

43 of 1961.

withdraw registration of the political party upon giving a reasonable opportunity of being heard in this regard.

(2) Where the Election Commission finds that any of the report or account referred to in sub-section (1) is false in any particular, it shall levy a fine up to a maximum of fifty lakh rupees on such political party.

(3) Where, upon scrutiny of the reports or accounts referred to sub-section (1) or other verification, the Election Committee finds that a political party has accepted any contribution from an ineligible donor, the party shall be liable to a penalty of five times the amount of that contribution."

Amendment
of section 77.

7. In section 77 of the principal Act,—

(a) in sub-section (1), for the words "the date on which he has been nominated", the words "the date of notification of such election by the Election Commission" shall be substituted;

(b) after sub-section (3), the following sub-sections shall be inserted, namely:—

"(4) Every candidate at an election shall, either by himself or by his election agent, keep an account of the particulars of the contributions received by the candidate after the date of notification of election.

Explanation.—All contributions by a political party to its candidate shall be made by a crossed account payee cheque or draft or bank transfer.

(5) The total of said contributions shall not exceed such amount as may be prescribed."

Amendment
of section 78.

8. In section 78 of the principal Act,—

(a) in sub-section (1), for the words "an account of his election expenses which shall be a true copy of the account", the words "the accounts of his election expenses and his contributions received, which shall be true copies of the accounts" shall be substituted;

(b) after sub-section (1), the following sub-sections shall be inserted, namely:—

"(2) The district election officer shall make publicly available, through electronic and print media, the accounts of election expenses and contributions submitted by each contesting candidate or their election agent under sub-section (1).

(3) The district election officer shall ensure that the aforementioned accounts are available for five years after their submission for public inspection, upon the payment of the prescribed fee.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India and the Representation of the People Act, 1951 have provided for and protected free and fair elections, removed undue influence of money, crime, or unequally shared information, since 1950. As India's political and financial systems evolve, electoral laws must regularly be reviewed and reformed to ensure that the lacunae which encourage misconduct are removed.

The laws governing disclosure of information are crucial for preventing the use of undemocratic, corrupt, and illegal practices to further political ambitions. Section 29A of the Representation of the People Act, 1951, specifies the requirements for political parties to register with the Election Commission, while sections 29C, 77, and 78 provide for the maintenance and lodging of accounts of donations received by political parties and election expenses of candidates. To support these current laws, new requirements should be implemented regarding the disclosure of internal practice and financial status of political agents. To this end, section 4 of this bill requires a political party to submit a public Constitution outlining their internal practices in order to register under the Commission, while sections 5, 6, and 7 mandate the provision of financial accounts to the public in order to contest elections. In these accounts, the majority, if not all, of contributors should be disclosed, and those parties who fail to follow these rules should be penalized accordingly.

Many cases of electoral misconduct could be avoided if the punishment, or the possibility thereof, was a strong enough deterrent in the face of significant benefits to a political career. The penalty for candidates who fail to lodge election accounts, as provided by section 10A, currently applies for a maximum of three years — an ineffective punishment, as a disqualified candidate can contest the next election, even if the maximum penalty is applied to their case. More egregious is the failure of Section 29C to impose an active penalty on political parties who fail to lodge elections accounts, instead only preventing offending parties from claiming that year's income tax benefits. Further, Section 29A provides for the registration of political parties, but does not directly allow the Commission to withdraw this recognition. If significant electoral offences are committed, the Commission should be able to sanction political parties through this process. The Bill, therefore, seeks to amend the Representation of the People Act, 1951 with a view to:—

- (a) extend the disqualification period such that the candidate cannot participate in the next election cycle;
- (b) expresses the specific power of the Commission to de-register errant political parties; and
- (c) introduces additional penalties for non-compliance of political parties regarding the submission of financial accounts, including fines and de-recognition of transgressing political parties.

Hence, this Bill.

NEW DELHI;
July 3, 2017.

RABINDRA KUMAR JENA

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117(1), 117(3) AND 274(1)
OF THE CONSTITUTION OF INDIA

[Copy of letter No. H.11018/10/2017-Leg. II dated 30 November, 2017 from Shri P.P. Chaudhary, Minister of State in the Ministry of Law and Justice and Corporate Affairs to the Secretary General, Lok Sabha].

The President, having been informed of the subject matter of the Representation of the People (Amendment) Bill, 2017 (*Amendment of section 2 etc.*) by Shri Rabindra Kumar Jena, M.P., recommends the introduction under articles 117(1) and 274(1) and the consideration of the Bill in Lok Sabha under article 117(3) of the Constitution.

FINANCIAL MEMORANDUM

Clause 5 of the Bill *vide* proposed section 29AA, provides for the Election Commission to make publicly available the constitution of a political party. Clause 6, *vide* proposed sections 29C, 29D and 29E provides for the Election Commission to make publicly available the details of accounts, contributions and expenditure, respectively of a political party. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of about rupees five crore may involve as recurring expenditure per annum.

No non-recurring expenditure is likely to be involved.

BILL NO. 120 OF 2017

A Bill to provide for the establishment of a permanent Bench of the High Court of Orissa at Balasore

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the High Court of Orissa (Establishment of a Permanent Bench at Balasore) Act, 2017. Short title.

2. There shall be established a permanent Bench of the High Court of Orissa at Balasore and such Judges of the High Court of Orissa, being not less than three in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Balasore in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Balasore, Mayurbhanj, Bhadrak, Kendujhar, Deogarh, Sundargarh, Jharsuguda and Sambalpur. Establishment of a permanent Bench of High Court of Orissa at Balasore.

STATEMENT OF OBJECTS AND REASONS

The High Court of Orissa is located at Cuttak in the State of Odisha. The judiciary is an important pillar on which the Indian Democracy rests. When a person gets no relief from other quarters, judiciary is often his final resort. But even in judiciary, in view of the large number of pending cases, there is not much possibility of getting speedy justice. If justice is delayed, it amounts to denial of justice. There has always been a demand for the establishment of a permanent High Court for the northern districts due to the large majority of pending cases in the Orissa High Court arising from the northern districts. The northern districts of Odisha are more densely populated as compared to the rest of the State, which also shows the need for a permanent Bench.

The Bill, therefore, seeks to establish a permanent Bench of High Court of Orissa at Balasore. A permanent Bench of the High Court, if established at Balasore, would go a long way in providing much needed relief to those who are not in position to bear the burden of expenditure on account of travelling to attend the hearings of their cases at the High Court at Cuttak.

Hence, this Bill.

NEW DELHI;
July 4, 2017.

RABINDRA KUMAR JENA

BILL NO. 212 OF 2017

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2017.

Short title.

2. In article 123 of the Constitution, in clause (2),—

Amendment
of Article
123.

(i) for sub-clause (a), the following sub-clause shall be substituted, namely:—

“(a) shall be laid before both the Houses of Parliament as the first order of business in the session held immediately succeeding its promulgation and shall cease to operate unless resolutions disapproving or approving the Ordinance are passed by both Houses, in that session, or in the subsequent session, summoned not more than six months later; and”;

(ii) in the *Explanation*.— for the words “six weeks”, the words “six months” shall be substituted.

Amendment
of article 213.

3. In article 213 of the Constitution, in clause (2),—

(i) for sub-clause (a), the following sub-clause shall be substituted, namely:—

“(a) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, as the first order of business, in the session held immediately succeeding its promulgation and shall cease to operate unless resolutions disapproving or approving the Ordinance are passed by both Houses in that session or in the subsequent session, summoned not more than six months later; and”; and

(ii) in the *Explanation*.—for the words “six weeks”, the words “six months” shall be substituted.

Amendment
of article 239.

4. In article 239B of the Constitution, in clause (2), for sub-clause (a), the following sub-clause shall be substituted, namely:—

“(a) shall be laid before the Legislature of the Union territory as the first order of business in the session held immediately succeeding its promulgation and shall cease to operate unless resolutions disapproving or approving the Ordinance are passed by the Legislative Assembly in that session, or in the subsequent session summoned not more than six months later; and.”.

STATEMENT OF OBJECTS AND REASONS

The Constitution places the responsibility of framing, drafting and passing laws in the able hands of the Legislature—the popularly elected body which represents the will of the people. A facet of this power is extended to the executive in the form of an Ordinance which the President or Governor can promulgate under certain emergent conditions.

In order to safeguard this power from excesses, the framers of the Constitution have gone ahead and set conditions when an Ordinance would cease to operate if not placed before the Legislature within the notified period. The spirit of the Constitution is consistent with the principle of Legislative supremacy in India's democratic set up; hence the Legislature must have the final say in making of law.

However, since the beginning of the first Lok Sabha in 1952, 637 Ordinances have been promulgated. The understanding of 'emergent' conditions has been stretched to include core legislations involving land, financial reforms, foreign direct investments etc. In some States, Ordinances have been promulgated and re-promulgated for fifteen years without being laid and voted in the Legislative Assembly or Council.

In 1986, the Supreme Court held that the power to promulgate an Ordinance is a power to be used to meet an extraordinary situation and it cannot be allowed to be perverted to serve political ends. More recently, in January 2017, the Supreme Court clarified that laying an Ordinance before the Legislature is a mandatory constitutional obligation cast upon the Government of the day. Re-promulgating Ordinances without ever being put to vote for years is a fraud on the Constitution.

The Constitution in the articles 123, 213 and 239 has not explicitly stated that an Ordinance needs to be laid on the Houses of Legislature summoned succeeding its promulgation. Hence, this ambiguity is continually misused by the executive to simply change the wording and re-promulgate the Ordinance.

This Bill seeks to make it constitutionally binding on the executive to lay an Ordinance promulgated before on Legislature in the session held immediately succeeding its promulgation. It seeks to mandate that unless the House passes a resolution of approval or disapproval of the Ordinance, within that session, it would expire automatically. It also gives the executive enough time by allowing it to be placed for approval or disapproval in the next session, not more than six months later.

Hence, this Bill.

NEW DELHI;
November 28, 2017.

RABINDRA KUMAR JENA

BILL NO. 8 OF 2018

A Bill to provide for establishment of a Board for determination of prices of consumer goods and services commonly used by public in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Consumer Goods Price Fixation Board Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Board" means the Consumer Goods Price Fixation Board constituted under section 4;

(b) "consumer goods" means any grocery item including milk, bread, cooking oils, cosmetic items, cloths, vegetables, fruits, finished goods or services which are commonly used by public and such other items as the Central Government may, by notification, in this regard, notify;

68 of 1986.

(c) "Prescribed" means prescribed by the rules made under this Act; and

(d) words and expressions used in this Act but not defined and defined in the Consumer Protection Act, 1986, shall have the meaning respectively assigned to them in that Act.

3. Notwithstanding anything contained in any other law for the time being in force, the Central Government shall fix the price of all the consumer goods and services through the Board established under section 4.

Board to fix the price of all the Consumer Goods and Services.

4. (1) The Central Government shall, by notification in the Official Gazette, establish, for achieving the objective mentioned in section 3, a Board to be known as the Consumer Goods Price Fixation Board.

Establishment of Consumer Goods Price Fixation Board.

(2) The Board shall consist of a chairperson and such number of members as may be prescribed for carrying out its functions.

(3) The salary and allowances payable to, and other terms and conditions of service of the Chairperson and members shall be such as may be prescribed.

(4) The Board shall have its office in the capital city of each State and Union territory.

(5) The Board shall have such number of officers and employees as may be necessary for performing its functions.

5. (1) The Board shall fix the prices of all the consumer goods and services in the country.

Functions of the Board.

(2) The Board shall, before fixing the prices, take into account the following factors besides other things:—

(i) quality of products;

(ii) demand and supply of products;

(iii) cost of production;

(iv) loss during production;

(v) price of accessories or which directly or indirectly affect the price factor of the products and services;

(vi) any other relevant factor as may be deemed necessary.

(3) The Board may fix different prices for different products and services in different States and in accordance with quality of the product and input cost and other relevant factors.

(4) The Board shall, from time to time, after taking into relevant factors revise the prices fixed for different products and services.

6. The Board shall cause to publish the prices fixed for various consumer goods and services in newspaper, radio, television, cable network.

Publicity to the prices fixed by Board.

7. If any person contravenes any decision of the Board he shall be punished with three years simple imprisonment and a fine which may extend upto rupees fifty thousand.

Penalty.

8. (1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Offences by Companies.

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purpose of this section:—

(i) "company" means anybody corporate and include a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm.

Power to
remove
difficulties.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Overriding
effect of the
Act.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force on the subject and save aforesaid the provisions of the Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to
make rules.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

There are many initiatives that have been taken with the sole objective of protecting the rights of the consumers. The government has also brought forward many legislative measures in this regard. These legislations would help consumer fight for his rights and are helpful in checking the malpractices. But, there is hardly any check on the prices of consumer goods. It has been seen that after one percent increase in the taxation or even for no reason, many unscrupulous manufacturers would enhance price of their products, sometimes, manifold. There is hardly any relationship between the quality and quantity of their product on the one hand and the price, on the other.

This problem is acute in the rural areas. In villages, commodities of such inferior quality are being sold at exorbitant prices. Of late there has been unbridled rise in the prices of essential commodities and other consumer products. The goods of daily use have gone out of the reach of the common man. The same is the position of various services commonly used by public.

In order to fix the prices of consumer goods and services, it has been proposed that a Board shall be set up with its offices in every State and Union Territories. The Board, apart from determining the price of products, shall also act as a check on the agencies who increase the prices at their own will. Since the functions and policies of the Board are regulated by the Central government, the prices of the product will be uniform throughout the country to some extent.

Hence, this Bill.

NEW DELHI;
June 30, 2017.

RAJESH RANJAN

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for establishment of a Board for the price fixation of the consumer goods and services. The Board shall have its offices in the capital city of each State and Union territory. The Bill, therefore, if enacted, would involve expenditure from the consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees ten crore is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of Legislative power is of a normal character.

BILL NO. 216 OF 2017

A Bill to provide for payment of remunerative price for raw jute to the jute growers, insurance of jute crop free of cost and for overall welfare of jute growers and for matters connected therewith.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Jute Growers (Remunerative Price and Welfare) Act, 2017.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Fund" means the Jute Growers Welfare Fund constituted under section 5;

(b) "jute grower" means any person who cultivates jute and obtains fibre therefrom; and

(c) "prescribed" means prescribed by rules made under this Act.

Procurement
of raw jute and
fixation of its
remunerative
price.

3. (1) The Central Government shall procure the entire jute crop fibre from jute growers through such agency as may be prescribed.

(2) The Central Government shall fix remunerative price of raw jute every year after taking into consideration—

(a) increase in the price of jute seeds, pesticides, fertilizers and other inputs;

(b) total investment made by the jute growers; and

(c) such other factors, as may be prescribed.

Insurance.

4. The entire jute produced by the jute growers shall be compulsorily insured free of cost by the Central Government against natural calamities, fall in the yield of jute, fall in the price of jute and such other eventualities as may be prescribed.

Constitution
of Jute
Growers
Welfare Fund.

5. (1) The Central Government, shall, by notification in the Official Gazette constitute the Jute Growers and Workers Welfare Fund for the purposes of this Act with initial corpus of rupees one thousand crore to be provided by the Central Government by due appropriation made by Parliament, by law in this behalf and thereafter the Central and concerned State Government shall contribute to the Fund to such extent and in such manner, as may be prescribed.

(2) The Fund may also receive moneys from corporate houses, financial institutions, individuals and bodies in the form of contributions or donations.

Utilization of
the Fund.

6. The Fund shall be utilized,—

(a) to provide financial assistance to jute growers for purchasing jute seeds, pesticides and fertilizers and in cases of low yields of jute or loss of their crops due to rains, storms, floods, hailstorms or drought;

(b) to pay compensation to the next of kin of jute growers in the event of their death;

(c) to provide free health facilities to jute growers and their families;

(d) to provide assistance to the jute growers in the event of disability; and

(e) for such other purposes as may be prescribed by the Central Government.

Power to make
rules.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Jute fibre, also known as golden fibre, used to hold a glorious position in our country. Jute is one of the main commercial crops of our country. Jute fibre as an industrial product is used to prepare bio-degradable, eco-friendly cheap bags. But of late, jute growers in the country are facing problems as they are not getting remunerative price for their produce. Jute cultivation is turning out to be a non-profitable venture for the farmers due to increase in the prices of jute seeds, fertilizers, pesticides and other inputs. Due to high investment involved in the cultivation of jute, farmers have to go for loans and on account of being unable to repay the loans, they are living under great distress. Being a cash crop, insurance facility is also not available to the jute farmers. Growing use of synthetic fibre is adding to the woes of jute growers.

The condition of jute growers in the leading jute producing States of West Bengal and Bihar is pitiable. Farmers of these States are getting into debt trap and in many cases, their financial condition is compelling them to take the extreme step of committing suicide.

Therefore, it is the responsibility of the Central Government to fix the remunerative price of jute; provide for free and compulsory insurance of jute crops and constitute a Jute Growers Welfare Fund to meet various needs of jute growers.

Hence, this Bill.

NEW DELHI;
November 29, 2017.

RAJESH RANJAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for procurement of entire jute produced in the country and also fixation of remunerative price of jute by the Central Government. Clause 4 provides for compulsory insurance of jute crop free of cost by the Central Government against natural calamities, fall in the yield of jute and such other eventualities. Clause 5 provides for the constitution of a Jute Growers Welfare Fund. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees three thousand crore may be involved per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 221 OF 2017

A Bill to provide for the establishment of an Inter-State River Water Authority to look into regulation and development of dams on inter-State rivers, controlling developmental activities on inter-State rivers, monitoring the safety and effects on habitat of dams on inter-State rivers and for all matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Inter-State River Water Authority Act, 2017.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation and development of inter-State rivers and dams built over them to the extent here in after provided.

Declaration
as to the
expediency of
Union control.

3. In this Act, unless the context otherwise requires,—

Definitions.

(a) “annual safety audit report” means a report giving the safety status of specified dams and details of effects of specified dams on surrounding environment and habitat including human settlements.

(b) “Authority” means the Inter-State River Water Authority established under section 4;

(c) “dam” means any artificial barrier including appurtenant works constructed across rivers or tributaries thereof with a view to impound, store or divert water;

(d) “inter-State river” means a river which originates in one State and passes through one or more States other than the State in which the river has its origin before it drains into the sea and also include rivulets, tributaries and lakes which have its source from an inter-State river;

(e) “prescribed” means prescribed by the rules made under this Act.

(f) “specified dams” means a dam which is,—

(i) constructed over an inter-State river; and

(ii) above fifteen meters in height, measured from the lowest portion of the general foundation area to the crest; or between ten to fifteen meters in height and capacity of the reservoir is not less than half a million cubic metres;

(g) “State” means the States which have one or more than one inter-State river flowing within their territory;

(h) “State Dam Safety Cell” means the State Dam Safety Cell constituted under section 7.

Constitution
of Inter-State
River Water
Authority.

4. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be constituted, for the purposes of this Act, an Authority, to be known as the Inter-State River Water Authority consisting of the following members, namely:—

(i) Chairperson, Central Water Commission — *ex-officio* Chairperson;

(ii) Commissioner (Projects), Ministry of Water Resources, River Development and Ganga Rejuvenation — *ex-officio* Member;

(iii) Member (Hydro), Central Electricity Authority — *ex-officio* Member;

(iv) Director General, Geological Survey of India — *ex-officio* Member;

(v) Director General, Indian Meteorological Department — *ex-officio* Member;

(vi) One Scientist, Grade E, Ministry of Environment, Forest and Climate Change — *ex-officio* Member;

(vii) Engineers-in-Chief or equivalent officers of Irrigation Departments of States having specified dams — *ex-officio* Members;

(2) The Central Government shall appoint such number of officers and staff as it considers necessary for the functioning of the Authority.

(3) The salary, allowances and terms of conditions of services of officers and staff of the Authority shall be such, as may be prescribed.

Meetings of
the Authority
and Selection
of the Steering
Committee.

5. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed by the Central Government:

Provided that the Authority shall meet at least once every three months.

(2) The expenditure incurred to attend meetings by the Members referred to in sub-clauses (i) to (vii) of section 4, shall be borne by their concerned controlling authorities.

(3) There shall be a Steering Committee consisting of the following members, namely:—

(a) Chairperson, Central Water Commission;

(b) Commissioner (Projects), Ministry of Water Resources, River Development and Ganga Rejuvenation; and

(c) two members selected from Members referred to in sub-clause (vii) of section 4.

(4) The two members in Steering Committee among Members referred to in sub-clause (vii) of section 4, shall have a term of six months and on expiry of their term, another two members shall be chosen amongst themselves.

(5) All issues that come up before the Authority shall be decided by a majority of votes of members of the Steering Committee, and in the event of an equality of votes, the Chairperson, Central Water Commission, shall have a casting vote.

(6) The Steering Committee shall, on every issue, deliberate and take suggestions from all members of the Authority present, before going in for a vote.

(7) The final decision of the Authority shall be taken by the Steering Committee.

6. (1) The Authority shall discharge such functions as may be necessary to ensure equitable distribution of water from inter-State rivers to respective States involved, ensure proper inspection and maintenance of all specified dams in the country and ensure their safe functioning.

Functions of
the Authority.

(2) Without prejudice to the provisions contained in sub-section (1), the Authority shall —

(a) analyse water needs of each state considering rainfall patterns, agricultural needs of State and deciding on the amount of water to be released to said States through specified dams within the States.

(b) revise the existing water awards to States once in every six months, taking into account drought time, to ensure that upper riparian States are not affected.

(c) monitor and evaluate dam safety practices in all specified dams and suggest guidelines to bring dam safety practices in conformity with latest international practices consistent with Indian conditions;

(d) monitor broadly the functioning of State Dam Safety Cells, as the case may be.

(e) look into and study environmental effects due to specified dams such as soil erosion, deforestation, effect on wildlife and other existing water bodies and advise the Central Government on appropriate remedial actions.

(f) study the effects of specified dams on people living in surrounding areas and advise the Central Government on necessary rehabilitation measures.

(g) examine all proposals for construction of dams on inter-State rivers and no new dams shall be constructed on inter-State rivers without prior approval from the Authority.

(h) redress grievances of States with regard to decisions made by the Authority and resolve it in a time bound manner by forming a Committee of three members as specified in section 8.

(3) The Authority shall also disseminate the knowledge and information collected to the State Dam Safety Cells.

7. (1) Every State having one or more specified dams shall establish under its Water Resource Department or Irrigation Department or the department dealing with matters of water resources, a separate Cell known as the State Dam Safety Cell headed by an Officer not below the rank of Superintending Engineer or equivalent.

State Dam
Safety Cells.

(2) The constitution of the State Dam Safety Cell shall be such as may be prescribed by the State Government.

(3) The administrative and other expenses of the State Dam Safety Cells shall be borne by the concerned State Governments.

(4) Every State Dam Safety Cell shall—

- (a) keep perpetual surveillance;
- (b) monitor maintenance;
- (c) carry out routine inspection,

of all specified dams falling within its State, to ensure continued safety of such specified dams and take such measures as may be necessary to address safety concerns that are noticed.

(5) Every State Dam Safety Cell shall provide information regarding all specified dams under its jurisdiction and shall act with prior approval from the Authority as and when required by the Authority.

(6) Every State Dam Safety Cell shall submit an audit report every three months, of all specified dams under its jurisdiction, to the Authority.

Dispute
Resolution
within the
Authority.

8. (1) The Authority shall constitute a permanent expert redressal committee consisting of three members selected by the Steering Committee from amongst persons who have served as a Judge of the Supreme Court of India.

(2) If it appears to the Government of any State that the decision of the Authority is in any way against the interests of the particular State or if any State refuses to implement the terms proposed by the Authority, the said State shall have the right to approach the expert redressal committee.

(3) The redressal committee shall submit its report on any case that arises before it within a period of six months to the Authority.

Central
Government
to provide
funds.

9. The Central Government, shall from time to time provide, after due appropriation made by Parliament by law in this behalf, requisite funds for carrying out the purposes of this Act.

Power to
remove
difficulty.

10. If any difficulty arises in giving effect to the provisions of this Act, the Central Government, in consultation with the State Governments, may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of any difficulty.

Power to make
rules.

11. (1) The Central Government, in consultation with the State Governments, may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions, aforesaid, both Houses agree to making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Rivers are rich sources of habitat. People from past, have migrated and settled around rivers. Thus it shows how important water sources are for survival of humans. Our country, has fourteen major rivers. All of them are inter-State rivers. More than 21 States have at least one or more inter-State rivers flowing through them. Conflicts arising between States in sharing the river water has been at the forefront of issues in our country. A Central Control over inter State dams is lacking and river water Tribunals, which adjudicate on disputes, have prolonged the cases without any fruitful results.

As civilizational demand increases, river water which was mainly used for irrigation purposes, now also has to cater to needs of fast growing industries. Today, each State is competing for the welfare of its own people and hence trying to maximise utilisation of the river water flowing within their territory. Compounded by the situation of uneven monsoons, our farmers, who are the backbone of this country, are the worst affected. Disputes between States have led to bad blood between its people thereby in a subtle way compromising the integrity of the nation. Our founding fathers had put their minds into this problem and had enshrined certain powers in the Constitution for the Union Government in this regard. The provision under article 262, empowers the Parliament to enact laws on adjudicating disputes between States regarding river water.

Therefore it is proposed in this Bill to constitute an Inter-State River Water Authority consisting of members from the concerned ministries, expert bodies and from all States having at least one Inter-State River within their territory. It is proposed that this Authority will have the exclusive powers to regulate flow of water and monitor water levels on all dams present over inter-State rivers. Any dispute arising between the State and the Authority will be taken up by a Committee formed under the Authority consisting of three retired Supreme Court judges. This Committee should give its decision in six months and it will be bonding on the States. Any new projects on inter-State rivers will require the prior approval of the Authority. It will also have the powers to issue detailed guidelines regarding dam safety by establishing Dam safety councils in States to carry out regular audits and frame guidelines advising the Government on issues relating to rehabilitation and compensation for people affected due to dams on inter-State rivers.

This Bill, by providing the power to regulate dams on inter-State rivers, to an independent body comprising of the Union, States and other experts, will help solve the problem of States acting on their own accord. This will result in an atmosphere of better cooperation among the stakeholders, leading to greater efficient usage of our water resources.

Hence, this Bill.

NEW DELHI;
29 November, 2017.

RAJESH RANJAN

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the constitution of Inter-State River Water Authority and also appointment of such number of officers and staffs for its functioning. Clause 9 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of this Bill. The Bill, therefore, if enacted will involve recurring expenditure of one hundred crore rupees per annum which shall be not from the Consolidated Fund of India. A non-recurring expenditure to the tune of rupees fifty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make necessary rules, by notification in the official gazette for carrying out the purposes of the Bill. As the rules will relate to matters of details only. The delegation of legislative power is of a normal character.

BILL NO. 29 OF 2018

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2018.

Short title.

2. In article 85 of the Constitution, in clause (I), the following proviso shall be added at the end, namely:—

Amendment
of article 85.

"Provided that the number of sittings of each House of Parliament in all sessions in a calendar year shall not be less than one hundred and twenty days."

STATEMENT OF OBJECTS AND REASONS

The Constitution has vested the power of the 'purse' in the hands of chosen representatives of the people, thus sanctifying the principle of 'no taxation without representation'. This accountability of the Government to citizens is implemented through scrutiny of its work by the Parliament.

From the citizen's point of view, parliamentary oversight inquiries offer an avenue to express views about the Government's management of public affairs. This direct citizen testimony is a valuable way to 'humanize' national Governance.

There are several points of overlap between Parliament's two most crucial functions—that of law making and oversight. Statutory lawmaking remains almost universally the preserve of Parliament. While most countries across the globe have specified a calendar of sitting days for their Parliament functioning, the makers of our Constitution left the power to the decision-makers of the day.

The highest institution of a democratic set up is the Parliament. It represents the will of the people and therefore the Parliament as an institution of accountability needs to be strengthened for a parliamentary democracy to prosper. The Bill seeks to ensure a minimum number of sitting days to ensure that there is Constitutional sanction and thus greater accountability for the Parliament to convene for a specific period of time.

During the first two decades of Parliament, Lok Sabha met for an average of a little more than one hundred twenty days a year. This has come down to approximately seventy days in the last decade. To ensure that our Parliament functions in the spirit and resolve that it was meant to, we need to have structural safeguards that strengthen the Parliament as an institution and not let it remain solely at the bidding of the Executive.

Hence, this Bill.

NEW DELHI;
December 1, 2017.

GAURAV GOGOI

BILL NO. 80 OF 2017

A Bill to provide for prohibition of using telecommunication system for making hoax calls and short message service and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prohibition of Using Telecommunication System for Hoax Calls Act, 2017.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "prescribed" means prescribed by rules made under this Act;

(b) "telecommunication system" means any mode of electronic telecommunication and includes any landline telephone, public telephone booth, mobile phone, satellite phone or internet phone; and

(c) words and expressions used but not defined in this Act but defined in the Indian Penal Code, 1860, the Indian Telegraph Act, 1885 and the Information Technology Act, 2000 shall have the same meaning as is respectively assigned to them in those Acts.

45 of 1860.
13 of 1885.
21 of 2000.

Prohibition of using telecommunication system for hoax calls or hoax Short Message Service.

3. (1) The use of any telecommunication system for hoax calls or hoax Short Message Service (SMS) or for any other similar purpose is hereby prohibited.

(2) Whoever contravenes the provisions of sub-section (1) shall be deemed to be guilty of committing an offence of making a hoax call under this Act.

Penalty.

4. Any person who is found guilty of making a hoax call or hoax Short Message Service (SMS) with an intention to spread fear or panic in public shall be punished with rigorous imprisonment for a minimum term of five years which may extend upto fifteen years and with fine of fifteen lakh rupees.

Offence to be cognizable.

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be cognizable and non-bailable.

Overriding effect of the Act.

6. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act not in derogation of other laws.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The menace of hoax calls or Short Message Service (SMS) made from local public telephone booths, mobile phones, internet phones etc. for spreading false information aimed at spreading fear or panic or sexual harassment has reached alarming levels. Everyday the newspapers are filled with reports of misuse of the telecommunication system by anti-social elements for making false/hoax calls or SMS raising a serious security concern for our nation which adversely affects the functioning of police forces and disrupts public services at large.

The culprits of such nefarious acts are encouraged to continue their activities since the punishment for such terrible acts is very minimal. It is felt that if harsh punishment is imposed on perpetrators of such heinous acts, they would discontinue their activities. Therefore, it is proposed to provide for harsher punishment for making hoax calls to curb this nuisance.

Hence, this Bill.

NEW DELHI;
March 30, 2017.

DARSHANA VIKRAM JARDOSH

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 260 OF 2017

A Bill to regulate the fee charged for private healthcare services with a view to making them affordable for the common man and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (i) This Act may be called the Private Healthcare Sector (Regulation of Fees) Act, 2017.

Short title,
extent and
commencement.

(ii) It extends to the whole of India.

(iii) It shall come into force such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Committee" means the Special High Power Committee constituted under section 3;

(b) "diagnostic laboratory" means a place owned or run by an industrial or a group of persons or by private or corporate hospital where pathological tests or investigations are conducted;

(c) "medical consultancy and other allied services" includes,—

(i) consultancy by qualified medical practitioners concerning all aspects of medical treatment/surgery whether in private clinics/hospitals or in the corporate hospitals;

(ii) all such pathological tests as are prescribed by the qualified doctors whether in a private clinic or in a private and/or corporate hospital; and

(iii) all such scanning or imaging services, namely, x-ray, ultra sound, MRI, CT scan or any other new health treatment method employed in future whether in a private clinic or in a private/corporate hospital;

(d) "medical practitioner" means a person duly qualified and registered by the Medical Council of India and engaged in the business of consultancy and providing medical treatment to patients whether as a private practitioner or in a private or corporate hospital; and

(e) "prescribed" means prescribed by rules made under this Act.

Constitution of
the High
Power
Committee for
regularization
of charges by
private
Healthcare
services.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Committee to be known as the Special High Power Committee to determine the fee charged by a private medical practitioner and private/corporate hospitals for providing medical treatment including charges levied for pathological tests, scanning and imaging.

(2) The Committee shall consist of—

- | | | |
|--|---|-------------------------------------|
| (i) The Minister of Health and Family Welfare Government of India, | — | Chairperson, <i>ex-officio</i> ; |
| (ii) Chairperson of the Department— Related Parliament Standing Committee on Health and Family Welfare, | — | member; |
| (iii) five representatives of private Hospitals, Laboratory including Government run hospitals/Laboratory, | — | members; |
| (iv) two representatives of Non-Governmental Organisation in the health sector, | — | members; |
| (v) five representatives of Medical Practitioners, | — | members; |
| (vi) one representative from each National Political Party, | — | members; |
| (vii) the Secretary to the Government of India, Ministry of Health and Family Welfare. | — | Secretary, <i>ex-officio</i> ; |

(3) The members referred to in clauses (iii), (iv) and (v) shall be appointed by the Central Government in such manner as may be prescribed.

(4) The members referred to in clause (vi) shall be appointed by the Central Government on the recommendation of the respective political party.

4. The Central Government shall provide the Committee such financial and other assistance as may be necessary for the efficient functioning of the Committee.

Central Government to provide assistance to the Committee.

5. The Committee shall,—

Functions of the Committee.

(i) fix the fee to be charged by the medical practitioners from patients or any other person/corporate paying on behalf of patient or health insurance providers either in their private clinics or in a private hospital/corporate hospital after taking into consideration such factors as may be necessary; and

(ii) fix the charges for the pathological tests and scanning/x-ray, after taking into consideration the infrastructural and service inputs used in carrying out the tests.

6. (1) No medical practitioner, private or corporate hospital shall charge from any patient the fee exceeding the fee fixed by the Committee.

Mandatory display of consultancy and other fees.

(2) It shall be mandatory for every medical practitioner/private or corporate hospital or diagnostic laboratory to display the fee as determined by the Committee in such manner as may be prescribed.

7. (1) Whoever contravenes the provisions of this Act shall be punished with imprisonment for a term which shall not be less than five years and with fine which may extend up to rupees fifty lakh.

Penalty.

(2) Where an offence under this Act has been committed by a medical practitioner/hospital/laboratory, the licence of such medical practitioner/hospital/laboratory shall be cancelled forthwith.

8. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made before each House of parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

While it is not practically feasible for the Government to provide medical treatment facilities to each and every citizen of the country, every day there are cases coming to light when private hospitals and private medical practitioners charge undue fees from patients for treatment costs and other allied services like pathological tests, etc. Even, the Insurance Regulatory Development Authority (IRDA) has also voiced its concerns about higher charges levied by private/corporate hospitals, which is one of the major obstacles in expansion of health insurance sector in India and for development of medical tourism in our country. The regulation of fee in private medical sector would be a right step in the direction of providing affordable and equitable healthcare services to all citizens.

It is, therefore, proposed to constitute a Special High Power Committee to fix the medical and pathological and other test charges levied by medical practitioner, private hospital, corporate hospitals and clinics.

Hence, this Bill.

NEW DELHI;
March 30, 2017.

DARSHANA VIKRAM JARDOSH

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of a special High Power Committee to regulate the fees charged by medical practitioner, private or corporate hospitals and clinics. Clause 4 provides that the Central Government shall provide financial assistance to the Committee for its efficient functioning. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees one hundred crores per annum would be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 68 OF 2018

A Bill to provide for the establishment of a permanent bench of the High Court of Gujarat at Surat.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the High Court of Gujarat (Establishment of a Permanent Bench at Surat) Act, 2018.

Establishment of a permanent Bench of the High Court of Gujarat at Surat.

2. There shall be established a permanent Bench of the High Court of Gujarat at Surat and such Judges of the High Court of Gujarat, being not less than three in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Surat in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Bharuch, Tapi, Navsari, Surat, Dang and Valsad.

STATEMENT OF OBJECTS AND REASONS

The High Court of Gujarat is located at Ahmedabad. Gujarat, being a vast State, people have to travel long distances with a lot of inconvenience in order to reach the High Court at Ahmedabad to pursue their cases.

There has been a long pending demand from the people of the State especially those from Bharuch, Tapi, Navsari, Surat, Dang and Valsad districts that a Bench of the High Court be setup at Surat which is a commercially important city of the State of Gujarat. It would greatly help the tribal people living in above said districts to pursue their pending cases for speedy disposal.

Hence, this Bill.

NEW DELHI;
February 21, 2018.

DARSHANA VIKRAMJARDOSH

BILL NO. 66 OF 2018

A Bill further to amend the Immoral Traffic (Prevention) Act, 1956.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Immoral Traffic (Prevention) Amendment Act, 2018.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

104 of 1956.

2. In the Immoral Traffic (Prevention) Act, 1956 (hereinafter referred to as the principal Act), in section 2, after clause (i), the following clause shall be inserted, namely,—

Amendment
of section 2.

"(ia) 'trafficking in person' means the recruitment, transportation, transfer, harbouring or obtaining of persons, by means of threat or use of force or other forms of coercion, abduction, kidnapping, fraud, deception, abuse of power or of a position of vulnerability or of giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Explanation. (1)—The expression "exploitation" includes, exploitation for prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs and the consent of a victim of trafficking in persons to the intended exploitation set forth in clause (ia) shall be irrelevant where any of the means mentioned in clause (ia) have been used.

Explanation. (2)—The expression 'trafficking in persons' includes recruitment, transportation, transfer, harbouring or obtaining of a child for the purpose of exploitation even if it does not involve any of the means as mentioned in clause (ia)".

3. In the principal Act, after section 5, the following section shall be inserted, namely:—

Insertion of
new section
5A.

"5A. Any person who commits trafficking in person shall be punished with imprisonment for life."

Punishment
for trafficking
in person.

STATEMENT OF OBJECTS AND REASONS

The menace of child trafficking in our country has been growing at an alarming pace. The common reasons for child trafficking range from economic deprivation, lack of employment opportunities, low social status (more common for girls), low education level and general awareness, disadvantageous socio-cultural norms, gender and minority discrimination etc. The prevalence of child trafficking is high in poverty stricken areas of Andhra Pradesh, Bihar, Uttar Pradesh, Madhya Pradesh, Rajasthan, Orissa and West Bengal.

Traffickers force young girls into prostitution, and other men, women, and children are held in debt bondage and face forced labour working in brick kilns, rice mills, factories, homes as domestic servants, or as beggars or in hazardous occupations etc. The traffickers of young girls are often those women who themselves have been trafficked and who use their personal relationships and trust in people in their villages to recruit additional girls.

A large number of children are abducted every year of which a sizeable number remain untraced according to a report by the National Human Rights Commission of India. The United Nations Children's Fund (UNICEF) has estimated that the majority of children trafficked are engaged in hazardous occupations.

Although the Immoral Traffic (Prevention) Act, 1956 is in place to address the issue of human trafficking. The Act only refers to trafficking for prostitution, hence does not provide comprehensive protection for children. The Act also does not provide clear definition of "trafficking". Thus, there is an imperative need to define, trafficking and to enhance the punishment for the heinous offence to protect children and others against trafficking.

Hence, this Bill.

NEW DELHI;
February 15, 2018.

DARSHANA VIKRAM JARDOSH

BILL NO. 25 OF 2018

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2018.

Short title and
Commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 324 of the Constitution, for clause (2), the following clauses shall be substituted, namely:—

Amendment
of article 324.

"(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may, from time to time, fix.

(2A) The appointment of the Chief Election Commissioner and other Election Commissioners shall be made by the President on the recommendation of the Selection Committee.

(2B) There shall be a Selection Committee consisting of—

- (i) the Prime Minister—Chairperson;
- (ii) the Union Law Minister—Member;
- (iii) the Leader of the Opposition in the House of the People—Member;
- (iv) the Leader of Opposition in the Council of States—Member; and
- (v) the Chief Justice of India or a Judge of the Supreme Court nominated by him—Member.

Explanation.—For the purposes of this clause, "the Leader of the Opposition in the House of the People" or "the Leader of the Opposition in the Council of States" shall, when no such leader has been so recognized, mean the Leader of the single largest group in Opposition in the House of the People or the Council of States, as the case may be.

(2C) The Selection Committee shall for the purposes of selecting the Chief Election Commissioner or Election Commissioners and for preparing a panel of persons to be considered for appointment as such, constitute a Search Committee consisting of at least five persons of standing and having special knowledge and expertise in the matters relating to public administration, vigilance, policy making, law and election management or in any other matter which, in the opinion of the Selection Committee, may be useful in making the selection of the Chief Election Commissioner and the Election Commissioners:

Provided that not less than two members of the Search Committee shall be from amongst the persons belonging to the Scheduled Castes or the Scheduled Tribes or the other Backward Classes or Minorities or Women:

Provided further that the Selection Committee may also consider any person other than the persons recommended by the Search Committee.

(2D) The Selection Committee shall regulate its own procedure in a transparent manner for selecting the Chief Election Commissioner and the Election Commissioners.

(2E) The term of the Search Committee referred to in sub-section (2C), the fees and allowances payable to its members and the manner of selection of panel of names shall be such as may be prescribed by the Selection Committee."

STATEMENT OF OBJECTS AND REASONS

The framework of the Constitution has established the office of the Chief Election Commissioner and the Election Commissioners who are entrusted with the responsibility to deal with matters that form the foundations of a democratic polity which is based on principles of transparency and accountability. In July 2017, the Supreme Court had made an observation on the absence of any law on the appointment of the Chief Election Commissioner (CEC) and further observed that leaving it entirely to the political executive would not ensure independence of the poll panel. The absence of any properly crafted procedure and independent mechanism for appointment to such crucial post under the Constitution hampers its status and authority. There is an immediate necessity to change the selection procedure for the appointment of such constitutional authorities. It would add prestige to the post, if the people heading it are chosen through a procedure in which the President has the benefit of getting a recommendation from a committee that will reflect a bipartisan consensus. The appointment of the above mentioned constitutional functionaries are governed by the provisions of the Constitution. As there is no separate law nor any prescribed procedure in the scheme of things currently in force, these appointments are made by the President on the advice of the Council of Ministers Headed by the Prime Minister. On a careful perusal of the debates in the Constituent Assembly, we come across the speech of Pandit Hriday Nath Kunzru and Prof. Shibban Lal Saxena, who spoke eloquently on the need to appoint a person as the Chief Election Commissioner or the Election Commissioner who commands confidence of a majority of both the Houses of Parliament. In principle, one could say that the person appointed should be such as to be acceptable and should have the confidence of the Parliament or across the political spectrum.

In the last sixty years of the glorious history of this country, our polity has undergone a metamorphosis and from the days of single party dominance earlier, we are passing through an era of coalition Governments. It would be in the fitness of things to incorporate a transparent procedure in respect of the appointment of such constitutional authorities, where the credibility and independence of the authority is of paramount importance. In order to nurture and strengthen this confidence of the public, a change in the selection procedure for the appointment is necessary keeping in view the changed political scenario in the country with its multiparty focus. A broad-based Committee will greatly add to the perceived sense of impartiality, neutrality and credibility, thereby further strengthening the faith of the public in the institutional framework of such authorities.

Hence, this Bill.

NEW DELHI;
November 30, 2017.

RAJEEV SATAV

FINANCIAL MEMORANDUM

Clause (2) of the Bill provides for constitution of a Search Committee to shortlist prospective candidates for appointment as Chief Election Commissioner or Election Commissioners. It also provides for the fees and allowances payable to members of the Search Committee. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees twenty-five lakh per annum will be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees ten lakh is also likely to be involved.

BILL NO. 17 OF 2018

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2018.

Short title.

2. In article 148 of the Constitution,—

Amendment of
article 148.

(a) in clause (1), after the words “appointed by the President”, the words “on the recommendation of the Selection Committee as provided under clause (1A)” shall be inserted; and

(b) after clause (1), the following clauses shall be inserted, namely:—

“(1A) The Selection Committee shall consist of—

(a) the Prime Minister—Chairperson;

(b) the Union Minister of Finance—Member;

(c) the Leader of Opposition or Leader of the Single Largest Party in Opposition, as the case may be, in the House of the People—Member;

(d) the Leader of Opposition or Leader of the Single Largest Party in Opposition, as the case may be, in the Council of States—Member;

(e) one eminent person, having experience of at least twenty years in the field of anti-corruption policy, public administration, vigilance, policy making, finance including insurance and banking, law and management or in such other matter as the Chairperson and Members of the Selection Committee deem appropriate, to be nominated by the President—Member.

(1B) The Selection Committee shall, for the purpose of selecting the Comptroller and Auditor-General of India and for preparing a panel of persons to be considered for appointment as such, constitute a Search Committee consisting of at least five persons of standing and having special knowledge and expertise in the matters relating to public administration, vigilance, policy making, law and management or in any other matter which, in the opinion of the Selection Committee, may be useful in making the selection of the Comptroller and Auditor-General of India:

Provided that not less than two members of the Search Committee shall be from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, the Other Backward Classes, the Minorities or women:

Provided further that the Selection Committee may also consider any person other than the persons recommended by the Search Committee.

(1C) The Selection Committee shall regulate its own procedure in a transparent manner for selecting the Comptroller and Auditor-General of India.

(1D) The term of the Search Committee referred to in clause (1B), the salary and allowances payable to its members and the manner of selection of panel of names shall be such as may be prescribed by the Selection Committee.”.

STATEMENT OF OBJECTS AND REASONS

The framework of the Constitution has established the office of Comptroller and Auditor-General (CAG) who is entrusted with the responsibility of ensuring transparency and accountability in Government finances and policies.

The genesis on the importance of CAG can be ascertained from the observation made by Dr. B.R. Ambedkar in the Constituent Assembly on May 30, 1949. Accordingly to Dr. Ambedkar, this officer was “probably the most important officer in the Constitution of India” because he is the one man who is going to see that the expenses voted by Parliament are not exceeded or varied. “If this functionary is to carry out the duties—and his duties, I submit, are far more important than the duties even of the judiciary.....I personally feel that he ought to have far greater independence than the Judiciary itself”.

Without exception, every member of the Constituent Assembly who spoke on the articles relating to the CAG, including Shri T.T. Krishnamachari, Pandit Hriday Nath Kunzru, Shri K.T. Shah and Shri R.K. Sidhva—fully endorsed Dr. Ambedkar's sentiments. The primary objective of the assembly appeared to be to cloth the CAG with such powers that the executive would in no circumstances be able to weaken his independence and objectivity. As a result, the first amendment moved that day was to change the nomenclature of the Auditor-General to Comptroller and Auditor-General, because as Shri T.T. Krishnamachari said, the function of the Auditor General is not merely to audit but to have a control over the expenses of Government. The nomenclature, he said, should be in consonance with the duties that are entrusted to him by the Constitution.

The absence of any proper crafted procedure and independent mechanism for appointment to such crucial post under the Constitution hampers its status and authority. A change in the selection procedure for the appointment of such Constitutional authorities are necessary. It would add prestige to the post, if the people heading it are chosen through a procedure in which the President has the benefit of getting a recommendation from a committee shall will reflect a bipartisan consensus. As there is no separate law nor any prescribed procedure, in the scheme of things currently in force, these appointments are made by the President on the advice of the Prime Minister.

It would be in the fitness of things to incorporate a transparent procedure in respect of the appointment of such constitutional authorities, where the credibility and independence of the authority is of paramount importance. In order to nurture and strengthen the confidence of the public, a change in the selection procedure for the appointment is necessary keeping in view the changed political scenario in the country with its multiparty focus. A broad-based Committee will greatly add to the perceived sense of impartiality, neutrality and credibility thereby further strengthening the faith of the public in the institutional framework of such authorities.

Hence, this Bill.

NEW DELHI;
December 7, 2017.

RAJEEV SATAV

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for setting up of a Search Committee to shortlist prospective candidates to the post of Comptroller and Auditor-General of India. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifteen lakh per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees ten lakh per annum is also likely to be involved.

BILL NO. 97 OF 2018

A Bill to provide for the establishment of a National Commission for Welfare of Farmers to improve the conditions of farmers and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called The National Commission for Welfare of Farmers Bill, 2018. Short title and commencement.

(2) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,— Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "farmer" means an Indian citizen who undertakes cultivation in his own land or in any other land on sharing basis or on lease or performs any other livelihood work related to agriculture;

(c) "National Commission" means the National Commission for Welfare of Farmers established under section 3; and

(d) "prescribed" means prescribed by rules made under this Act.

Establishment
of a National
Commission
for Farmers
Welfare and
Development.

3. (1) The Central Government shall, by notification in the Official Gazette, establish a Commission to be known as the National Commission for Welfare of Farmers to improve the conditions of farmers in the country.

(2) The Commission shall consist of —

(a) a Chairperson;

(b) a Deputy Chairperson; and

(c) three members,

to be appointed by the President by warrant under his signature and seal from amongst the persons having special knowledge in the field of agriculture.

(3) The Central Government may appoint such number of officers and staff including experts to the Commission as may be required for its efficient functioning.

(4) The salary and allowances payable to, and other terms and conditions of service of the Chairperson, Deputy Chairperson, members, officers, staff and experts of the Commission shall be such as may be prescribed.

(5) The National Commission shall have the power to regulate its own procedure.

Functions of
the National
Commission.

4. (1) It shall be the duty of the National Commission to take such steps, as it may deem appropriate, for the welfare and development of farmers and their dependant family members.

(2) Without prejudice to the generality of the foregoing provision, the National Commission shall ensure the following provisions for the benefit and welfare of farmers, namely:—

(a) negotiating all cases related to the safeguards provided to farmers and carry out the monitoring and improvement of such safeguards;

(b) investigate complaints of the farmers related to deprivation of their rights and safeguards;

(c) participate in the planning process of socio-economic development of farmers;

(d) advice the appropriate Government to enhance pace of development of farmers under its jurisdiction;

(e) submit reports to the President regarding the working of safeguards on an annual basis or at such intervals as it thinks fit including measures for protection, welfare and social development of farmers; and

(f) undertake all other functions for the protection, welfare and development of farmers, as specified by the President.

President to
lay report.

5. (1) The President shall cause to be laid before each Houses of Parliament all the reports submitted to him under clause (e) of sub-section (2) of section 4 alongwith a memorandum explaining the reasons for not accepting any of the recommendations made thereto.

(2) Where the report, or any of its part is related to any of the issue connected with the State Government, a copy of such report shall be forwarded to the Governor of that State, who shall in turn, along with an explanatory memorandum concerned with the action taken or

proposed to be taken on the recommendations related to the State, if any, and reasons for not accepting any of the recommendations, cause to be laid such report before the State legislature.

6. The National Commission shall, while investigating any matter referred to in clause (b) of sub-section (2) of section 4, have all the powers of a Civil Court trying a suit and, in particular in respect of the following matters, namely:—

Commission to have powers of Civil Court.

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commission for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

7. The appropriate Government shall consult the National Commission on all policies affecting interests of the farmers.

Appropriate Government to consult Commission.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the National Commission for carrying out the purposes of this Act.

Central Government to provide adequate funds to the National Commission.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

10. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

More than half of country's population is engaged in agriculture and its allied activities, but the financial condition of farmers is still in a pitiable state. There are many schemes and special provisions for the welfare of farmers in the country, inspite of which no significant change can be observed in their social-economic conditions. Neither their financial condition has improved as expected nor their complaints are resolved. In such a scenario, in order to end their exploitation and to ensure their holistic development, need for a better and empowered institutional mechanism has long been felt. There is an urgent need for establishment of a National Commission for Welfare of Farmers on the lines of the Scheduled Castes and the Scheduled Tribes Commissions.

Hence, this Bill.

NEW DELHI;
February 19, 2018.

RAJEEV SATAV

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of National Commission for Farmers Welfare and Development. It also provides for appointment of a Chairperson, Deputy Chairperson, members, officers, staff and experts to the Commission. Clause 8 provides for the Central Government to provide adequate funds for the functioning of the Commission. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of Rupees Twenty crore will be involved.

A non-recurring expenditure of about Rupees five crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL No. 96 OF 2018

A Bill to provide for establishment of a National Agricultural Produce Price Fixation Tribunal in pursuance of article 323B(2) (g) of the Constitution to uphold the livelihood rights of farmers, agriculturists and the general public, in matters relating to price fixation of agricultural produce considered as essential commodities and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called as the National Agricultural Produce Price Fixation Tribunal Act, 2018.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "agriculture" with all its grammatical variations and cognate expressions, includes floriculture, horticulture, sericulture, the raising of crops, grass or garden produce, dairy farming, poultry farming, stock breeding, cutting of wood or grass, gathering of fruit, raising of man-made forest or rearing of seedlings or plants;

(b) "appointed day" in relation to National Tribunal means the date with effect from which it is established, by notification under section 3;

(c) "Chairperson" means the Chairperson of the Principle Bench of the Tribunal;

(d) "Commission" means the Commission for Agricultural Costs and Prices (CACP) constituted under the Union Ministry of Agriculture and Farmers Welfare;

(e) "crop" includes crop of wheat, rice, jawar, bajra, toor, ground nut, cotton, sugarcane or any other crop notified in the Official Gazette, from time to time;

10 of 1955.

(f) "essential commodities" means the agricultural produce as notified under the Essential Commodities Act, 1955;

(g) "Expert Member" means a member of the Tribunal who, is appointed as such, and holds qualifications specified in sub-section (4) of section 5, and, is not a Judicial Member;

(h) "fair price" means the fair and reasonable price of agricultural produce (food crops and food stuffs, edible oilseeds and other crops) as recommended by the Commission to the Government of India and verified by the Tribunal and agreeable to both the parties involved in the transaction;

(i) "farmer" means any person who—

(i) cultivates crops by cultivating the land himself; or

(ii) cultivates crops by directly supervising the cultivation of land through any other person; or

(iii) conserves and preserves, severally or jointly, with any person or traditional varieties or adds value to such traditional varieties through selection and identification of their useful properties;

(j) "goods" include such items which have been declared as essential goods in the Official Gazette for the purpose of article 323(B) (g) of the Constitution of India and control of the prices of such goods;

10 of 1994.

(k) "human rights" shall have the same meaning as defined under clause (d) of section 2 of the Protection of Human Rights Act, 1993;

(l) "Judicial Member" means a member of the Tribunal appointed as such under this Act, and includes the Chairperson or a Vice-Chairperson who possesses any of the qualifications specified under section 5;

(m) "minimum support price" means the minimum support price of agriculture produce as declared by the Union Government;

(n) "notification" means a notification published in the Official Gazette;

(o) "order" means an order notified in the Official Gazette;

(p) "petition" means an application made under sections 14, 15 and 16;

(q) "prescribed" means prescribed by rules made under this Act;

(r) "victim" means any person who has suffered any loss or injury due to the act or omission for which the Government machinery deciding the prize for agricultural produce is responsible and expression includes his guardian or legal heir and any such group of persons or family members facing financial loss and issues related to livelihood;

(s) "substantial question related to agricultural produce price fixation" include issues relating to direct violation of farmers rights by denial of fair market price for their agricultural produce and the financial losses due to lower price prescribed to agricultural produce; and

(t) "Tribunal" means the National Agricultural Produce Price Fixation Tribunal established under section 3.

CHAPTER II

ESTABLISHMENT OF THE TRIBUNAL

Establishment
of National
Agricultural
Produce Price
Confirmation
Tribunal.

3. (1) The Central Government shall, by notification, establish, with effect from such date as may be specified therein, a Tribunal to be known as the National Agricultural Produce Price Fixation Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

(2) The Central Government may, on receipt of a request in this behalf from any State Government, establish by notification, a Regional Bench of the Tribunal for that State which shall be established as per States Zones to exercise the jurisdiction, powers and authority conferred on the Tribunal for the State under this Act.

Composition
of Tribunal
and Benches
thereof.

4. (1) The Tribunal shall consist of a Chairperson, such number of Vice-Chairperson as Judicial Member and a minimum of two Expert Members to be appointed by the Central Government in such manner as may be prescribed.

(2) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Expert Member to be appointed by the Central Government in such manner as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1) the Chairperson may,—

(a) in addition to discharge the functions of the Judicial Member or the Member of the Regional Bench of the Tribunal to which he is appointed, discharge the functions of the Members of the Tribunal, the Member of any other Bench, as the case may be;

(b) transfer the Vice-Chairperson or other Member from one Bench to another Bench;

(c) authorize the Vice-Chairperson or the Judicial Member or the Member appointed to one Bench, to discharge additionally the functions of the Vice-Chairperson or, as the case may be, the Judicial Member or the Member of another Bench as the case may be; and

(d) for the purpose of securing that any case or cases which having regard to the nature of the question involved, requires, in his opinion or under the rules made by Central Government in this behalf, to be decided by Bench composed of more than two Members, issue such general or special Orders, as he may deem fit;

(4) Subject to the provisions of this Act, the Benches of the Tribunal shall ordinarily sit at New Delhi which shall be known as Principal Bench and at other Zonal Benches as Central Government may, by notification, specify.

5. (1) A person shall not be qualified for appointment and selection as Chairperson unless he —

(a) is, or has been a retired Judge of Supreme Court or retired Chief Justice of any High Court; and

(b) has at least two years held the office of Vice-Chairperson.

(2) A person shall not be qualified for appointment as the Vice-Chairperson unless he—

(a) is, or has been, or is qualified to be a Judge of High Court; and

(b) has for a period not less than three years, held office as Judicial Member.

(3) A person shall not be qualified for appointment and selection as Judicial Member unless he—

(a) is, or has been, or is qualified to be, a Judge of High Court; or

(b) is retired as Principle District Judge or is qualified to be appointed as Principal District Judge.

(4) A person shall not be qualified for appointment as an Expert Member unless he—

(a) is having minimum qualification of post graduation in agriculture, economics and relevant field, or

(b) has experience of at least five years work in the field of agriculture, economics or any other related fields like Agronomy, Animal Science and Dairy Science, Agricultural Botany, Soil Science and Agriculture Chemistry, Agricultural Economics, Agriculture Entomology, Agricultural Extension, Bio-Chemistry, Food Science and Technology, Horticulture, Inter Faculty IWM, Statistics, Plant Pathology and Agriculture Micro Biology, Bio Technology.

(5) The Chairperson, Vice- Chairperson, Judicial Member and Expert Member of the Tribunal and its Benches shall be appointed by the President of India under his warrant and seal.

(6) No appointment of a person possessing qualifications specified in this section as the Chairperson, a Vice-Chairperson or a Member shall be made without consultation with the Selection Committee headed by the Chief Justice of India and comprising of two sitting Judges of the Supreme Court or High Court, one representative of the Indian Council for Agricultural Research and one Vice-Chancellor of any Agricultural University to be nominated by the Central Government.

6. (1) In the event of occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, such Central Vice-Chairperson as the Government may, by notification, authorize in this behalf, shall act as the Chairperson until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such a vacancy enters upon his office.

(2) When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, such Vice-Chairperson as the Central Government may, by notification, authorize in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

7. The Chairperson, Vice-Chairperson or other Member shall hold office as such for a term of three years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of three years.

8. (1) The Chairperson, Vice-Chairperson, Judicial Member and Expert Member by notice in writing under his hand addressed to the President, resign from his office:

Qualifications for appointment and selection as Chairperson, Vice-Chairperson, Judicial Member.

Vice-Chairperson to act as Chairperson or to discharge his functions in certain circumstances.

Term of Office.

Resignation and Removal.

Provided that the Chairperson, Vice-Chairperson, Judicial Member and Expert Member shall, unless he is permitted by the President to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such a notice or until a person duly appointed in his place enters upon his office or until the expiry of his term of office, whichever is earliest.

(2) The Chairperson, Vice-Chairperson, Judicial Member and Expert Member shall not be removed from their office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a judge of the Supreme Court in which such Chairperson, Vice-Chairperson, Judicial Member and Expert Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Salaries and allowances and other terms and conditions of service of Chairperson, Vice-Chairperson and other Members.

9. The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Chairperson, Vice-Chairperson and Members shall be such as may be prescribed.

Provision as to the holding of offices by Chairperson on ceasing to be such Chairperson.

10. On ceasing to hold office the Chairperson of the Tribunal shall be ineligible for further employment either under the Government of India or under Government of a State for a period of three years.

Financial and administrative powers of the Chairperson.

11. The Chairperson shall exercise such financial and administrative powers over the Benches as may be vested in him under the rules made by the Central Government:

Provided that the Chairperson may delegate such of his financial and administrative powers as he may deem fit to the Vice-Chairperson or any officer of the Tribunal, subject to the condition that the Vice-Chairperson or such officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairperson.

Staff of the Tribunal.

12. (1) The Central Government shall appoint such number of the officers and other employees required to assist a Tribunal in the discharge of its functions as it may think fit.

(2) The officers and other employees of a Tribunal shall discharge their functions under the general superintendence of the Chairperson.

(3) The salaries and allowances payable to and other terms and conditions of service of the officers and employees of the Tribunal shall be such as may be prescribed.

CHAPTER III

JURISDICTION, POWERS AND AUTHORITY OF PROCEEDINGS OF TRIBUNAL

Jurisdiction, Powers and Proceedings of the National Agriculture Price Confirmation Tribunal.

13. (1) Save as otherwise expressly provided in this Act, the Tribunal shall exercise on and from the appointed date, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court) in relation to—

(a) fixation of price of agricultural produce declared by the Central Government in pursuance of the recommendations made by the Commission;

(b) the confirmation of principles and methodologies used by the Commission for determination of minimum support price;

(c) the factors which are to be considered for determination of cost of agriculture produce include bank interest and wages of the labour;

(d) the factors which determine the quantum of subsidy to be given by the Central Government to reduce the cost of agriculture produce;

(e) the factors relating to dearness allowance, profit, escalation of the prices in global market and all other factors incidental thereto;

(f) the factors safeguarding the interest of the agriculturists and consumer; and

(g) the factors affecting the agricultural produce and its price including low standard and defective chemicals, pesticides, fertilizers resulting environmental impact on the agricultural produce.

(2) The Tribunal shall have the powers to direct the Central Government to control the import and export of the agriculture produce, by considering the prices of the particular agricultural produce fixed or determined by the Tribunal.

(3) The Tribunal shall have power to direct the Central Government to reimburse the agriculturist for the short fall between the price declared by the Tribunal.

14. (1) The Tribunal shall have the jurisdiction over all civil cases where substantial question related to agricultural produce price fixation is involved. (including enforcement of any legal right of farmer related to livelihood and fixation of price of agricultural produce) or for instance where there is direct violation of farmers in getting good market price for their agricultural produce and the lower price prescribed to agricultural produce affect the farmer communities and the gravity of such damage to margin of profit is broadly measurable and which can be shown comparatively in reference to previous years price fixation as well as by producing actual information related to sell of such agricultural produce in price higher than prescribed by the Commission or the concern Government Authority.

Tribunal to settle disputes.

(2) The Tribunal shall hear the disputes arising from questions referred to in sub-section (1) above and settle some dispute arising and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

15. (1) The Tribunal may, by an order, provide,—

(a) relief and compensation to the victims of irrational, arbitrary, unfair fixation of price for agricultural produce and other damages arising as mention in section 13;

(b) for restitution of agricultural land damaged,

Relief, compensation and restitution.

(2) The relief and compensation and restitution of farm land, agricultural produce and other economical damage referred to in clauses (a) and (b) of sub-section (1) shall be in addition to the relief paid to farmer.

(3) No application for grant of any compensation or relief or restitution of agricultural property or loss to livelihood under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

(4) The Tribunal may, having regard to the damage to public health, agricultural property, divide the compensation or relief payable under separate heads so as to provide compensation or relief to the claimant victims, as it may deem fit.

(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other court or authority.

Liability to pay relief or compensation in certain cases.

16. Where loss to agricultural produce of any farmer, or damage to crops or damage to any agricultural property has resulted from an irrational, arbitrary and unfair process of fixation of price for agricultural produce, the Government or its concerned authorities shall be responsible to pay such relief or compensation for any such damage to crops or damage to any agricultural property.

Petition to Tribunal.

17. (1) Each petition under sections 14, 15 and 16 shall be made to the Tribunal in such form, contain such particulars, and, be accompanied by such documents and such fees as may be prescribed by Central Government after consultation with the Chairperson of the Tribunal.

(2) Without prejudice to the provisions mentioned in this law, a petition for grant of relief or compensation or settlement of dispute may be made to the Tribunal by—

(a) farmer, who has sustained economic damage to agricultural produce and livelihood;

(b) any farmer or registered organisation of an agriculturist at State or National level or the legal representatives of farmer, as the case may be, may file petition to the National Agricultural Produce Price Confirmation Tribunal for cost verification of minimum support price declared by the Central Government.

(3) The petition filed before the Tribunal under this Act shall be dealt as expeditiously as possible and endeavour shall be made by it to dispose of the petition, or, as the case may be, finally within six months from the date of filing of the petition, or as the case may be, after providing the parties concerned an opportunity to be heard.

Procedure and powers of Tribunal.

18. (1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice.

5 of 1908.

(2) Subject to the provisions of this Act, the Tribunal shall have power to regulate its own procedure.

(3) The Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872.

1 of 1872.

(4) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;

1 of 1872.

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decision;

(g) dismissing a petition for default or deciding it *ex parte*;

(h) setting aside any order of dismissal of any petition for default or any order passed by it *ex parte*;

(i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any petition filed under this Act;

(j) pass an order requiring any person to cease and desist from committing or causing any violation to any farmer;

(k) any other matter which may be prescribed.

45 of 1860.
2 of 1974.

(5) All proceedings before the Tribunal shall be deemed to be the judicial proceedings within the meaning of sections 193, 219 and 228 for the purposes of section 196 of the Indian Penal Code, 1860 and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

19. The Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle.

Tribunal to apply certain principles.

20. The decision of Tribunal shall be taken by majority of Members and shall be binding:

Decision to be taken by majority.

Provided that if there is a difference of opinion amongst the Members hearing any petition and the opinion is equally divided, the Chairperson shall hear (if he has not heard earlier) such petition and decide:

Provided further that where the Chairperson himself has heard such petition or appeal along with other Members of the Tribunal, and if there is a difference of opinion among the Members in such cases and the opinion is equally divided, he shall refer the matter to other Members of the Tribunal who shall hear such petition and decide.

5 of 1908.

21. Any person aggrieved by any decision or order of the Tribunal, may, file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision or order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908:

Appeal.

Provided that the Supreme Court may entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal.

22. (1) While disposing of a petition under this Act, the Tribunal shall have power to make such order as to costs, as it may consider necessary.

Imposition of cost.

(2) Where the Tribunal holds that a claim is not maintainable, or is false or vexatious, and such claim is disallowed, in whole or in part, the Tribunal may, if it so thinks fit, after recording its reasons for holding such claim to be false or vexatious, make an order to award costs, including lost benefits due to any interim injunction.

23. A person making an application to a Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.

Right of petitioner to take assistance of legal practitioner.

24. Subject to the provisions of this Act and the rules, the order of a Tribunal finally disposing of petition shall be agitated in execution before the Tribunal.

Execution of orders of a Tribunal.

CHAPTER IV

MISCELLANEOUS

25. No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which may be adjudicated by Agriculture Price Tribunal under this Act and no

Bar on Jurisdiction of Civil Court.

order shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Members and staff of Tribunal to be public servants.

26. The Chairperson, Vice-Chairperson, the Judicial and Expert Members, officers and other employees of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

15 of 1860.

Protection of action taken in good faith.

27. No suit, prosecution or other legal proceeding shall lie against the Central or State Government or against the Chairperson, Vice-Chairperson or other person authorized by such Chairperson, Vice-Chairperson or other Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made there under.

Application of other laws not barred.

28. The provisions of this Act or rules made thereunder shall be in addition to, and not in derogation of the Banking Regulation Act, 1949, the Minimum Wages Act, 1948, the Essential Commodities Act, 1955, the Agricultural Procedure Marketing (Development and Regulation) Act of the State Government concerned.

10 of 1949.
11 of 1948.
10 of 1955.

Act to have overriding effect.

29. The provisions of this Act, shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Power to remove difficulties.

30. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Power to make rules.

31. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting;

(b) the salaries and allowances payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Chairperson, Judicial Member and Expert Member of the Tribunal under section 9;

(c) the recruitment of officers and other employees of the Tribunal under sub-section (2) of section 12; and the salaries and allowances and other conditions of service of the officers and other employees of the Tribunal under sub-section (3) of that section;

(d) the financial and administrative powers to be exercised by the Chairperson of the Tribunal under section 11;

(e) the format for petition to be filed before the Tribunal under sections 14, 15 and fees.

(3) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The National Farmers Commission under the Chairmanship of Prof. M.S. Swaminathan in its report had pointed out that "Success in agricultural progress should be measured by the growth of farmers' incomes and not just by production figures". As echoed by the Commission, for sustainability of agriculture, farmers' income and livelihood must be the focal point of policy framing in agriculture. The Minimum Support Price (MSP) of the crops does not cover the cost of production of the agriculture produce to the full extent and, therefore, it does not do full justice to the farmers. Even though the prices declared by the CACP are not remunerative, they are not up to the cost of cultivation.

The need is to establish a Tribunal under constitutional provision of article 323B (2) (g) for adjudicating disputes relating to agricultural produce. Our country is an agrarian economy and a sizeable population is involved in the agriculture sector. There has been an alarming increase in farmer suicides due to factors such as debt, loss of productivity and denial of actual cost. The creation of such a Tribunal will be a right step in providing an autonomous body which shall adjudicate disputes and address the issues faced by the farmers on issues relating to appropriate price for their produce.

The Tribunal also required to be mandated to uphold the fundamental right of livelihood for farmers, who form the backbone of the country. The absence of any dedicated and impartial Tribunal to ascertain fair price and provide relief in the form of compensation or restitution to farmers on account of denial of the mandated cost, resulted in causing financial losses to the farmers. The need is further to study and scrutinize the factors that which would safeguard farmers' interest.

The Bill, therefore, seeks to provide for establishment of a National Agricultural Produce Price Fixation Tribunal in pursuance of article 323B(2) (g) of the Constitution to which uphold the livelihood rights of farmers, agriculturist and the general public, in matters relating to price fixation of agricultural produce considered as essential commodities and for matters connected therewith.

Hence, this Bill.

NEW DELHI;
February 22, 2018.

RAJEEV SATAV

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the National Agricultural Produce Price Fixation Tribunal. Clause 9 provides for the salary and allowances of the Chairperson and Members of the Tribunal. Clause 12 provides for appointment of officers and staff of the Tribunal. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees forty crore per annum would be involved.

A non-recurring expenditure of about rupees ten crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 31 of the Bill empowers the Central Government to make, by notification in the Official Gazette, rules for carrying out the provisions of the proposed legislation. Sub-clause (2) enumerates the matters in respect of which such rules may be made. These matters, *inter alia*, include matters relating to—

(a) the transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting;

(b) the salaries and allowances payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Judicial Member and Expert Member of the Tribunal under section 9;

(c) the recruitment of officers and other employees of the Tribunal under sub-section (2) of section 12; and the salaries and allowances and other conditions of service of the officers and other employees of the Tribunal under sub-section (3) of that section;

(d) the financial and administrative powers to be exercised by the Chairperson of the Tribunal under section 11;

(e) the format for petition to be filed before the tribunal under sections 14, 15 and fees.

As the matters in respect of which rules may be made are matter of procedure and administrative detail and it is not practicable to provide for them in the Bill itself, the delegation of legislative powers, therefore, is of a normal character.

BILL NO. 200 OF 2017

A Bill to provide for the constitution of Central Council of the Physiotherapy, the co-ordinated development in the education of phsiotherapy with a view to regulating and maintaining standards of such education, maintenance of Register of Physiotherapists and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and
commencement.

1. (1) This Act may be called the Physiotherapy Central Council Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification, appoint; and different dates may be appointed for constitution of different Central Councils and for different provisions of this Act.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) "Central Council" means the Central Council of Physiotherapy, constituted under section 3;

(b) "education" means programmes of education, research or training or such other programmes or areas as the Central Government may, in consultation with the Central Council, by notification, declare in the discipline of physiotherapy;

(c) "Fund" means the physiotherapy Central Council fund constituted under section 30;

(d) "institution" means any institution, by whatever name called, established by law for imparting education under this Act;

(e) "member" means a member of the Central Council and includes its Chairperson and the Vice-Chairperson;

(f) "notification" means a notification published in the Official Gazette;

(g) "physiotherapist" means a person whose name has been entered in the register of the Central Council;

(h) "physiotherapy" means medically directed therapy through physical agents including heat, cold, light, water, massage, electricity or manual exercise to persons with the aim of preventing or correcting any disability includes occupational therapy;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "register" means the register maintained under sub-section (1) of section 23;

(k) "regulations" means regulations made under this Act;

(l) "University" means a University defined under clause (f) of section 2 of the University Grants Commission Act, 1956 and includes an institution declared to be a deemed University under section 3 of the said Act.

(2) Any reference in this Act of a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

CHAPTER II

THE CENTRAL COUNCIL AND ITS COMMITTEES

3. (1) The Central Government shall, by notification, constitute a Central Council to be known as the Central Council of Physiotherapy, for carrying out the purposes of this Act.

Constitution of Central Council of Physiotherapy.

(2) The Central Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said names sue and be sued.

(3) The head office of the Central Council shall be at such place as may be determined, by notification, by the Central Government and the Central Council may, with the previous approval of the Central Government, establish regional offices at other places in India.

(4) The Central Council shall consist of,—

(a) a Chairperson, to be appointed by the Central Government from amongst the members of the Central Council;

(b) a Vice-Chairperson, to be appointed by the Central Government from amongst the members of the Central Council;

(c) one officer not below the rank of an Assistant Director General of the Directorate General of Health Services in the Union Ministry of Health and Family Welfare dealing with the physiotherapy;

(d) one officer of the Ministry or the Department of the Central Government having administrative control of health not below the rank of a Deputy Secretary to the Government of India, dealing with the physiotherapy;

(e) one member to below the rank of a Deputy Secretary to the Government of India to be appointed by the Central Government to represent the Union Ministry of Finance;

(f) one member not below the rank of a Deputy Secretary to the Government of India to be appointed by the Central Government to represent the Union Ministry of Science and Technology;

(g) one member not below the rank of a Deputy Secretary to the Government of India to be appointed by the Director General, Armed Forces Medical Services to represent the Ministry of Defence;

(h) two members not below the rank of a Deputy Secretary to the Government of India to be appointed by the Central Government to represent,—

(i) the Central Board of Secondary Education; and

(ii) the University Grants Commission.

(i) four members to be appointed by the Central Government from amongst the teachers of the recognized institutions imparting education in physiotherapy;

(j) not less than three members to be appointed by the Central Government by rotation in the alphabetical order to represent the States and one member to represent the Union territories:

Provided that an appointment under this clause shall be made on the recommendation of the Government of the State, or as the case may be, the Union territory concerned; and

(k) four members to be appointed by the Central Government from the organizations representing the interest of physiotherapy.

Term of
office and
casual
vacancy.

4. (1) The Chairperson, Vice-Chairperson and other member of the Central Council shall hold office for a term of five years from the date of his appointment.

(2) The Chairperson, Vice-Chairperson and other member shall be deemed to have vacated his office, if, in the opinion of the Central Council, he is absent without sufficient excuse, from three consecutive ordinary meetings of the Central Council, or he ceases to be a member under section 5.

(3) A casual vacancy in the Central Council shall be filled by fresh appointment and the person so appointed to fill the vacancy shall hold office only for the remainder of the term of the Chairperson, Vice-Chairperson and other member in whose place he has been appointed.

(4) The Chairperson, Vice-Chairperson and other member of the Central Council shall be eligible for reappointment.

Cessation of
membership.

5. The Chairperson, Vice-Chairperson and other member appointed by the Central Government under clauses (c) to (i) of sub-section (4) of section 3 shall cease to be a member of the Central Council on his cessation to the service by virtue of which he was appointed as a member of the Central Council.

6. The Chairperson, Vice-Chairperson and other members appointed by the Central Government under clauses (a), (b) and (h) to (k) of sub-section (4) of section 3 may at anytime resign his membership by writing under his hand addressed to the Central Government:

Resignation by member.

Provided that a members who has submitted his registration under this section shall continue to hold office of the Central Council until his resignation has been accepted by the Central Government.

7. (1) The Central Council may, without prejudice to the provisions of sub-section (2), by a majority of its total membership and a majority of not less than two-thirds of its members present and voting, at any time recommend removal of a member to the Central Government, if it is satisfied that for any reason the continuance of that member in that Council is not in the public interest or is prejudicial to the interest of said Council and the decision of the Central Government in this regard shall be final.

Removal and vacation of membership.

(2) The Central Government shall remove the Chairperson, Vice-Chairperson and other members of the Central Council, if he—

- (a) has been convicted for an offence involving moral turpitude; or
- (b) is declared an undischarged insolvent by the competent court; or
- (c) becomes of unsound mind and is declared so by the competent court; or
- (d) refuses to act or becomes incapable of acting as a member; or
- (e) has absented without intimation for three consecutive meetings of the Council; or
- (f) has abused the position of the Chairperson, the Vice-Chairperson or a member, as the case may be, as to render his or her continuance in the office detrimental to the public interest: Provided that no person shall be removed under clauses (a), (d), (e) and (f) unless she has been given an opportunity of being heard.

8. (1) The Central Council shall meet at such time and place, and shall observe such rules of procedure in regard to the transaction of business at its meetings, including the quorum at such meetings, as may be determined by regulations: Provided that the Central Council shall meet at least once every year.

Meetings of Central Council.

(2) The Chairperson and in his absence the Vice-Chairperson shall preside at the meetings of the Central Council.

(3) If for any reason the Chairperson and the Vice-Chairperson both are unable to attend any meeting of the Central Council, any other member chosen by the members present at the meeting shall preside over the sittings of that meeting.

(4) All questions which come up before any meeting of the Central Council shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the person presiding shall have and exercise a second or casting vote.

9. No act or proceeding of the Central Council shall be invalidated merely by of—

- (a) any vacancy in, or any defect in the constitution of, said Council; or
- (b) any defect in the appointment of a person acting as a member of said Council; or
- (c) any irregularity in the procedure of that Central Council not affecting the merits of the case.

Vacancy, etc., not to invalidate proceedings of Central Council.

10. (1) The Central Council may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may require in carrying out any of the provisions of this Act.

Power to associate persons with Central Council for particular purposes.

(2) A person associated with the Central Council under sub-section (1) for any purpose shall have a right to take part in the discussion relevant to that purpose, but shall have no right to vote at a meeting of said Council, and shall not be a member for any other purpose.

Committees
of Central
Council.

11. (1) The Central Council shall, as soon as may be, constitute from among its members an Executive Committee, Disciplinary Committee, or any other Committee as may be determined by regulations, for such general or specific purposes as it consider necessary, for carrying out its functions under this Act.

(2) The composition, tenure and functions of a Committee shall be such as may be determined by regulations.

(3) Every Committee constituted under this section shall choose its own Chairperson:

Provided that—

(a) where the Chairperson is a member of such Committee, he shall be the Chairperson of such Committee, and in his absence, the Vice-Chairperson, if he is a member of such Committee, shall be its Chairperson; and in the absence of both, any member chosen by the members of that Committee shall be its Chairperson;

(b) where the Chairperson is not a member of such Committee but the Vice-Chairperson is a member, he shall be its Chairperson, and in his absence any member chosen by the members of the Committee shall be its Chairperson.

Functions of
Central
Council.

12. (1) It shall be the duty of the Central Council to take such steps as it may think fit for ensuring coordinated and integrated development of education and maintenance of its standards.

(2) In particular and without prejudice to the generality of the foregoing power, the functions of the Central Council shall include—

(a) entry, removal or re-entry of names in the register;

(b) maintenance of a register of persons qualified to practice in the physiotherapy discipline;

(c) determination of standards of education, training, research, professional conduct or ethics of physiotherapists.

(d) to receive gifts, grants, donations or benefactions from the Central Government or a State Government and to receive bequests, donations and transfer of movable or immovable properties from testators, donors or transferors, as the case maybe;

(e) exercise of disciplinary powers conferred by this Act; and

(f) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Council.

Appointment
of Secretary,
officers and
other
employees of
Central
Council.

13. (1) For the purpose of discharging its functions efficiently under this Act, The Central Council shall, subject to such regulations as may be made in this behalf, appoint a Secretary, officers and other employees, as it may consider necessary:

Provided that the first Secretary of the Central Council shall be appointed by the Central Government on such terms and conditions as that Government may deem fit and the Secretary shall hold office for a period of three years.

(2) The Secretary, officers, or other employees appointed by the Central Council shall be subject to such conditions of services and entitled to such remunerations as may be determined by regulations.

Secretary to
act as Chief
Executive
Officer at
Central
Council.

14. The Secretary appointed under sub-section (1) of section 13 shall be the Chief Executive Officer of the Central Council.

- 15.** All orders and decisions of the Central Council shall be authenticated by the signature of the Chairperson, or any other member authorised by the Council in this behalf, and all other instruments issued by the Council shall be authenticated by the signature of the Chief Executive Officer or any other officer of the Council authorised by the Council in this behalf.
- 16.** On and from the date specified in the notification, as may be issued by Central Government, no University or institution shall impart education for the purposes of this Act without seeking prior approval of the said Government.
- 17.** (1) The Central Government, after consulting the Central Council, may, by notification, from time to time, declare the education granted by any University or institution to be the recognized qualifications for the purposes of this Act.
- (2) The University or institution whose education has not been notified by the Central Government under sub-section (1), may apply to the said Government for reviewing its decision:
- Provided that the Central Government may reject the application made under sub-section (2) for reasons to be recorded in writing.
- (3) The Central Government, after consulting the Central Council, may, by notification, relax education for persons who are practising as physiotherapist, on or before the date specified under section 16.
- 18.** The Central Government, after consulting the Central Council, may, by notification make a scheme of reciprocity for the purpose of recognition of foreign qualifications in the relevant discipline for the purposes of this Act.
- 19.** The Central Council may, determine by regulations, the minimum standards of education required for granting recognized qualifications by the Universities or institutions.
- 20.** Any University or institution imparting education shall furnish information to the central Council regarding course of study, duration of course, scheme of examination and other eligibility conditions as the Central Council may, from time to time require.
- 21.** (1) The Central Council may appoint such number of inspectors as it may deem fit deal with recognition of its education in any University or institution.
- (2) An inspector may—
- (a) inspect any University or institution which imparts education;
- (b) attend at any approved examination; and
- (c) inspect any University or institution which has applied for the recognition of its course of study or examination under this Act, and attend at any examination of such University or institution.
- (3) An inspector while performing his functions under sub-section (2) shall not interfere with the conduct of the examination but he shall report to the Central Council on the adequacy of standards of education including staff, equipment, accommodation, training and other facilities for giving such education or the sufficiency of every examination which he tends and on any of the matters in regard to which the said Council may require him to report.
- (4) The Central Council shall forward a copy of every such report to the University or institution, as the case may be, and shall also forward a copy together with any comments there on which the said University or institution may have made, to the Central Government.

Authentication of orders and other instruments of Central Council.

Approval of Central Government for imparting education.

Recognition of education.

Scheme of reciprocity for recognition of foreign qualifications.

Minimum standards of education.

Furnishing of information by University or institution to Central Council regarding education.

Appointment of Inspectors.

Withdrawal of
recognition.

22. Where the Central Council reports to the Central Government that an approved course of study or an approved examination does not continue to be in conformity with the regulations, the Central Government shall give notice to the concerned University or institution of its intention to take into consideration the question of withdrawing of recognition accorded to the course of study or examination, as the case may be, and the said University or institution, as the case may be, shall within three months from the receipt of such notice forward to the Central Government such representation in the matter as it may deem proper.

CHAPTER III

THE REGISTER

Register of
physiotherapist.

23. (1) The Central Council shall maintain a register and enter names in it of physiotherapists, in the manner determined by regulations.

(2) Subject to the other provisions of this Act, any person possessing education as notified by the Central Government under section 17 or section 18, shall be eligible to have his name entered in the register of the Central Council and to obtain certificate of practice from it.

(3) No person shall be entitled to practice under this Act unless his name is entered in the register of Central Council:

Provided that the name of any person possessing the education as notified under section 17 by the Central Government shall be deemed to have been entered in the register from the date of such notification if he has made an application for entering his name in the register within six months from the coming into force of such notification or till his application is disposed of by the Council.

Entry of name
in register.

24. (1) The Central Council may, on receipt of an application made by any person in the manner and on payment of such fee, not exceeding one thousand rupees, as may be determined by regulations, enter his name in the register if the said Council is satisfied that such person possesses the required qualification.

(2) Any person whose name has been entered in the register shall be entitled to be called the physiotherapist.

(3) The Central Council may refuse to enter the name of any person in the register for reasons to be recorded in writing and in the manner determined by regulations.

Professional
conduct and
removal of
names from
register.

25. (1) The Central Council shall determine by regulations the standards of professional conduct and etiquette and a code of ethics for the practitioners under this Act.

(2) The regulations made by the Central Council under sub-section (1) may specify as to which violations thereof shall constitute professional misconduct, and such provisions shall have effect notwithstanding anything contained in any other law for the time being in force.

(3) The Central Council may by order remove the name of a person from the register, maintained under sub-section (1) of section 23, where it is satisfied, after giving that person a reasonable opportunity of being heard, and after such further inquiry, if any, as it may deem fit make,—

(i) that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact;

(ii) that he has been convicted of any offence or has been guilty of misconduct in any professional respect, or has violated the standards of professional conduct and etiquette or the code of ethics determined under sub-section (1) which, in the opinion of the said Council, renders him unfit to be kept in the register.

(4) An order under sub-section (3) may specify that any person whose name is ordered to be removed from the register shall be ineligible for registration under this Act either permanently or for such period, as may be specified.

26. (1) Where on receipt of information by, or on a complaint made to it, the Central Council is *prima facie* of opinion that any physiotherapist has been guilty of any professional or other misconduct, the said Council shall refer the case to the Disciplinary Committee constituted under section 11, and the Disciplinary Committee shall thereupon hold such inquiry and in such manner as may be determined by regulations and shall report the result of its inquiry to the said Council.

Procedure in inquiries relating to misconduct.

(2) If on receipt of such report, the Central Council finds that a physiotherapist is not guilty of any professional or other misconduct, it shall record its finding accordingly and direct that the proceedings shall be filed, or the complaint shall be dismissed, as the case may be.

(3) If on receipt of such report the Central Council finds that a physiotherapist, is guilty of any misconduct in any professional respect or has violated the standards of professional conduct and etiquette or the code of ethics prescribed under this Act, it shall proceed against such person in accordance with the provisions of sub-section (3) and (4) of section 25.

Explanation.—For the purposes of this section, "physiotherapist" includes the person who was a physiotherapist on the date of the alleged misconduct, although he has ceased to be so at the time of inquiry.

(4) For the purposes of any inquiry under this section, the Central Council and its Disciplinary Committee shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

- (a) Summoning and enforcing the attendance of any person and examining him on oath;
- (b) the discovery and production of any document; and
- (c) receiving evidence on affidavits.

27. The Central Council may re-enter the name of a person whose name has not been removed permanently from the register under sub-section (4) of section 25, by an order, in such manner and on payment of such fee, not exceeding one thousand rupees, and after satisfying such conditions and requirement as may be determined by regulations.

Re-entry in register.

28. (1) Where a Central Council under this Act, has,—

- (a) refused to enter the name of any person in the register; or
- (b) ordered to remove the name of any person from the register, such person may appeal to the Central Government within thirty days from the date of receipt of the order of the said Council by him in the manner as may be prescribed: Provided that the Central Government may entertain such appeal after the expiry of said period of thirty days if it is satisfied that for sufficient reasons such person could not file the appeal.

Appeal against order made by Central Council.

(2) The Central Government shall dispose of the appeal preferred under sub-section (1) according to procedure as may be prescribed.

(3) The decision of the Central Government under sub-section (2) shall be final.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

29. The Central Government may, after due appropriation made by the Parliament by law in this behalf, pay to Central Council in each financial year such sums as may be considered necessary for the performance of functions of the Central Council.

Payment by Central Government.

Fund of Central Council.

30. (1) The Central Council shall by notification in the Official Gazette constitute a Fund to be known as the Central Physiotherapy Central Council Fund to which shall be credited, and all sums which may, from time to time, be paid to it by the Central Government and all the receipts of a Central Council, State Government or any other authority or person and all payments by a Central Council shall be made there from.

(2) All money belonging to the Fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the Central Government, be decided by the Central Council.

(3) The Central Council may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of the Central Council.

Budget.

31. The Central Council shall prepare, in such form and at such time each year as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure, and copies thereof shall be forwarded to the Central Government.

Annual Report.

32. The Central Council shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before both Houses of parliament.

Accounts and audit.

33. (1) The Central Council shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed.

(2) The Central Council shall, as soon as may be, after closing its annual accounts prepare a statement of accounts in such form, and forward the same to the Comptroller and Auditor-General of India by such date, as the Central Government may, in consultation with the Comptroller and Auditor-General, determine.

(3) The accounts of the Central Council shall be audited by the Comptroller and Auditor-General of India at such times and in such manner as he thinks fit.

(4) The accounts of the Central Council as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf to get herewith the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of parliament.

CHAPTER V

MISCELLANEOUS

Prohibition in employment as physiotherapist by clinical establishment.

34. No clinical establishment, such as hospital, nursing home and other institutions of healthcare, shall appoint any person as physiotherapist unless his name has been entered in the register of the Central Council.

Penalty for violation of provisions of this Act.

35. Any person who acts in contravention of the provisions of this Act or any rules or regulations made there under, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one lakh rupees, or with both.

Penalty for practicing as professional by non-professional.

36. Any person whose name has not been entered or whose name is not deemed to have been entered in the register of the Central Council under this Act and is practicing as physiotherapist, shall be punishable with imprisonment for a term which may extend upto six months, or with fine which may extend upto twenty thousand rupees, or with both.

Punishment for dishonest use of certificates, etc.

37. Any person—

(i) who dishonestly makes use of his entry in the register under the provisions of this Act; or

(ii) who dishonestly attempts to practice under provisions of this Act by making or producing or causing to be made or produced any false or fraudulent declaration or representation whether in writing or otherwise; or

(iii) who willfully makes false representation in any matter relating to the register under the provisions of this Act; or

(iv) whose name has been removed from the register willfully practices as a physiotherapist,

shall be punishable with simple imprisonment which may extend to two years, or with fine which may extend to ten thousand rupees, or both; and for any subsequent offence, with imprisonment which may extend to three years, or with fine which may extend to twenty thousand rupees, or with both.

38. No court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from the Central Government or the Central Council. Cognizance of offences.

39. (1) The Central Government may, from time to time, issue such directions to a Central Council as in the opinion of said Government are conducive for the fulfillment of the objects of this Act and in the discharge of its functions, that Central Council shall be bound to carry out any such directions. Directions by the Central Government.

(2) Directions issued under sub-section (1) may include directions to a Central Council to make any regulations or to amend or revoke any regulations already made.

(3) If, in the opinion of the Central Government, the Central Council has persistently committed default in giving effect to the directions issued under this section, the Central Government may after giving an opportunity to the Central Council to state its case, by order, dissolve the Central Council where after a new Central Council shall be constituted in accordance with the provisions of this Act with effect from such date as may be notified by the Central Government.

(4) Where the Central Government passes an order under sub-section (3) dissolving the Central Council, it may, pending the constitution of a new Central Council in accordance with the provisions of this Act, authorize any person or body of persons to take over the management of the affairs of the said Council and to exercise such functions as may be specified in this behalf by the Central Government.

40. No suit, prosecution or other legal proceeding shall lie against the Central Government, Central Council, or the Chairperson, Vice-Chairperson, members, Secretary or any officer or other employees of the Central Council in respect of anything which is in good faith done or intended to be done in pursuance of this Act. Protection of action taken in good faith.

41. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the fore going power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of filing an appeal under sub-section (1) of section 28;

(b) the procedure to dispose of appeal under sub-section (2) of section 28;

(c) the form and the time for preparation of budget of the Central Council under section 31;

(d) the form and the time for preparation of annual report of the Central Council under section 32;

(e) the form and the manner of maintenance of books of account under section 33; and

(f) any other matter which is required to be or may be prescribed.

Power to
make
regulations.

42. (1) The Central Council may, with the previous approval of the Central Government, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) The time, place, procedure and quorum of the meeting of the Central Council under sub-section (1) of section 8;

(b) the manner and purpose for associating persons with the Central Council under sub-section (1) of section 10;

(c) the composition, tenure and function of committees under section 11;

(d) the appointment, conditions of service and remuneration of the Secretary, officer and other employees under section 13;

(e) the minimum standards of education required for granting recognized qualifications under section 19;

(f) the maintenance of register under sub-section (1) of section 23;

(g) the manner and payment for fee for entry of name in the register under sub-section (1) of section 24;

(h) the manner for refusing to enter the name in the register under sub-section (3) of section 24;

(i) the standards of professional conduct and etiquette and code of ethics under sub-section (1) of section 25;

(j) the manner to hold inquiry by the Disciplinary Committee under sub-section (1) of section 26; and

(k) the manner, payment of fee, conditions and requirement of re-entry of the name in the register under section 27.

Rules and
regulations to
be laid before
Parliament.

43. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, be for each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power to
remove
difficulties.

44. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, may make provisions not inconsistent with the provisions of this Act, as may appear it to be necessary for removing the difficulty: Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECT AND REASONS

In order to keep pace with the advancement of medical science and development of new diagnostic and therapeutic techniques, there has been a quantum jump in the demand for physiotherapists. This has resulted in the establishment of a large number of institutions and centres for the training of these professionals, which are run without any supervision and control as to the quality and standard of education.

Maintenance of proper standards in the training and education of physiotherapist professions is considered essential as these personnel play an inevitable role in healthcare delivery. With a view to regulating these professions, it is considered necessary to set up Council on the lines already existing for pharmacy, nursing, dental, medical etc. To begin with, it is proposed to set up separate Council for Physiotherapists. This Council will be responsible, *inter alia*, for maintenance of uniform standards of education in the physiotherapy disciplines and registration of qualified personnel for practicing the profession.

The Bill seeks to achieve the above objects.

Hence, this Bill.

New Delhi;
July 24, 2017.

KIRIT PREMJI BHAI SOLANKI

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 3 of the Bill provides for establishment of the Central Council of Physiotherapy.

Clause 13 provides for appointment of Secretaries, Officers and other employees of the Central Council.

Clause 21 provides for appointment of Inspectors for the Central Council.

Clause 30 provides for establishment of Fund of the Central Council.

The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of about rupees one crore and ninety lakhs will be involved as recurring expenditure per annum.

A non-recurring expenditure of rupees one hundred crore is also likely to be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Council to make regulations to provide for the time, place, procedure and quorum for the meeting of the Central Council.

Clause 10 empowers the Central Council to make regulations to provide for the manner and the purposes for associating persons with itself whose assistance or advice it may require.

Clause 11 empowers Central Council to make regulations to provide for the constitution of Committees. It empowers each Central Council to provide for the composition, tenure and functions of each such Committee.

Clause 13 empowers the Central Council to make regulations to provide for the appointment of a Secretary, officers and other employees and to determine the conditions of service and entitlement to remuneration of the Secretary, officer and other employees.

Clause 19 empowers the Central Council to determine by regulations the minimum standards of education required for granting recognized qualifications by the Universities or Institutions.

Clause 23 empowers the Central Council to make regulations to provide for the manner of maintaining and entering the names in the Register of Central Council.

Clause 24 empowers the Central Council to make regulations to provide for the manner of, and the fee for, making application for entering the name in the register. Sub-clause (3) thereof also empowers the Central Council to determine the manner of refusing to enter the name in the Register.

Clause 25 empowers the Central Council to determine by regulations the standards of professional conduct and etiquette and the code of ethics for the practitioners.

Clause 26 empowers the Central Council to determine by regulations the manner of holding inquiry by the Disciplinary Committee.

Clause 27 empowers the Central Council to make regulation to provide for the manner of, the fee for, and the conditions and requirement for, re-entering the name in the Central Register.

Clause 28 empowers the Central Government to make rules to provide for the manner of filing appeal from the order of the Central Council relating to refusal to enter the name in, or

removal of the name from, the Register. It also empowers the Central Government to provide for the procedure for disposal of such appeal.

Clause 31 empowers the Central Government to make rules to provide for the form and the time for preparation of the Annual Budget of each Central Council.

Clause 32 empowers the Central Government to make rules to provide for the form and the time for preparation of annual report of each Central Council.

Clause 33 empowers the Central Government to make rules to provide for the form and the manner of maintenance of books of accounts of the Central Council. As the matters for which the rules and regulations may be made pertain to matters of procedure or detail only, the delegation of legislative power is, therefore, of normal character.

BILL NO. 197 OF 2017

A Bill to amend the Mental Healthcare Act, 2017.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Mental Healthcare (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of
the Section 3.

2. In section 3 of the Mental Healthcare Act, 2017 (hereinafter referred to as the principal Act), sub-section (2), shall be omitted.

10 of 2017

Amendment
of section 5.

3. In section 5 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"5. (1) Every person, who is not a minor, shall have a right to make an advance directive in writing."

- 4.** After section 29 of the principal Act, the following section shall be inserted, namely:—
- Insertion of new section 29A.
- "29A. (1) The appropriate Government shall conduct a survey to identify sections of the population vulnerable to mental illnesses, particularly persons from the Scheduled Castes, Scheduled Tribes and Persons with Disabilities.
- (2) The appropriate Government shall have a duty to plan, design and implement programmes and schemes for the promotion of mental health awareness, prevention of mental illness and provision of counselling and psychiatric services amongst vulnerable sections of the population, particularly persons from the Scheduled Castes, the Scheduled Tribes and the Persons with Disabilities.
- Special provisions for Scheduled Castes and Scheduled Tribes and Persons with Disabilities.
- 5.** In section 34 of the principal Act, after sub-section (1), the following proviso shall be inserted, namely:—
- "Provided that out of the members referred to in clauses (i) to (p) at least one member shall be from the Scheduled Castes, the Scheduled Tribes and the Persons with Disabilities."
- Amendment of section 34.
- 6.** In section 46 of the principal Act, after sub-section (1), the following proviso shall be inserted, namely:—
- "Provided that out of the members referred to in clauses (h) to (n) at least one member shall be from the Scheduled Castes, the Scheduled Tribes and the Persons with Disabilities."
- Amendment of section 46.
- 7.** In section 74 of the principal Act, in sub-section (1), for clause (c), the following clause shall be substituted, namely:—
- "(c) three members of whom two shall be psychiatrists and the other shall be a medical practitioner."
- Amendment of section 74.
- 8.** After section 108 of the principal Act, the following section shall be inserted, namely:—
- Insertion of new section 108A.
- "108A. If any public servant, charged with duty of providing mental healthcare services to mentally ill persons under this Act, fails to perform his duty, he shall be punished with imprisonment for a term of one year or with fine of rupees ten thousand, in addition to departmental disciplinary action for dereliction of duty by the Government, he shall be punished for not providing the mental healthcare services offered to mentally ill persons under this Act in such manner as may be prescribed."
- Punishment to public servant for failure to perform duty.

STATEMENT OF OBJECTS AND REASONS

India being the signatory to the United Nations Convention on the Rights of persons with disabilities in 2007, which made it incumbent on the State to provide shield against the rights of persons with mental illness and promote their access to mental healthcare.

The word competency originates from the word 'competent' which indicates the concept involved in the Indian Contract Act, 1872 wherein section 11 connotes eligibility to make a contract. However, the Mental Healthcare Act, 2017 has altered the doctor-patient relationship. Being on treatment by a psychiatrist will not take away a person's 'competence'.

Also, the Mental Healthcare Act, 2017 should not be contrary to any existing law of the India. A mentally-ill person shall have the right to make an advance directive that states how he wants to be treated for the illness during a mental health situation and who shall be his nominated representative. Even it would be quite inappropriate to give such a right selectively to those with mental illnesses, while victims of all other illnesses are not given the same. It would be a case of equals being treated unequally and that way discriminatory and unlawful.

Moreover, the Bill seeks to provide for mental healthcare and services for persons with mental illness and to protect, promote and fulfil the rights of such persons during delivery of mental healthcare and services.

The Bill seeks to achieve the above objectives.

NEW DELHI;
July 3, 2017.

KIRIT PREMJI BHAI SOLANKI

BILL NO. 265 OF 2017

A Bill further to amend the Wild Life (Protection) Act, 1972.

BE it enacted by Parliament in the Sixty-eighth year of the Republic of India as follows:—

1. (1) This Act may be called the Wild Life (Protection) Amendment Act, 2017.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government, may by notification in the Official Gazette, appoint.

53 of 1972

2. After Chapter IVC of the Wild Life (Protection) Act, 1972 (hereinafter referred to as the principal Act), the following Chapter shall be inserted, namely:—

Insertion of
the new
Chapter IVD.

"CHAPTER IVD

LION CONSERVATION AUTHORITY

38ZA. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Lion Conservation Authority" means the Lion Conservation Authority constituted under section 38ZB;

(b) "Lion Conservation Fund" means the Fund established under sub-section (2) of section 38ZG;

(c) "sanctuary" means the sanctuaries situated in the State Governments including Gir.

Constitution
of the Lion
Conservation
Authority.

38ZB. (1) The Central Government shall constitute an Authority to be known as the Lion Conservation Authority, to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

(2) The Lion Conservation Authority shall consist of the following members, namely:—

(a) the Minister in charge of the Ministry of Environment, Forests and Climate Change—Chairperson;

(b) the Minister of State in the Ministry of Environment, Forests and Climate Change and—Vice-Chairperson;

(c) three members of Parliament of whom two shall be elected by the House of the People and one by the Council of States;

(d) the Minister in-charge of Wild Life from the State of Gujarat;

(e) five experts or professionals having prescribed qualifications and experience in conservation of wild life and welfare of people living in and around the Gir Sanctuary;

(f) Secretary, Ministry of Environment, Forests and Climate Change;

(g) Director General of Forests and Special Secretary, Minister of Environment, Forests and Climate Change;

(h) Director, Wild Life Preservation Ministry of Environment, Forests and Climate Change;

(i) Chief Wild Life Warden from the State of Gujarat;

(j) Additional Chief Secretary, Department of Forests and Environment, State of Gujarat;

(k) Conservator of Forests, Gujarat Lion Conservator Society.

(3) It is hereby declared that the office of member of the Lion Conservation Authority shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

Terms of
office and
conditions of
the service of
members.

38ZC. (1) A member nominated under clause (e) of sub-section (2) of section 38ZB shall hold office for such period not exceeding three years:

Provided that a member may, by writing under his hand addressed to the Central Government, resign from his office.

(2) The Central Government shall remove a member referred to in clause (e) of sub-section (2) of section 38ZB, from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;

(c) is of unsound mind and stands so declared by a competent court;

(d) refuses to act or becomes incapable of acting;

(e) is, without obtaining leave of absence from the Lion Conservation Authority, absent from three consecutive meetings of the said Authority; or

(f) has in the opinion of the Central Government so abused his position as to render his continuation in office detrimental to the public interest:

Provided that no member shall be removed under this sub-section unless he has been given a reasonable opportunity of being heard in the matter.

(3) Any vacancy in the office of a member shall be filled by fresh appointment and such member shall continue for the remainder of the term of the member in whose place he or she is appointed.

(4) The salaries and allowances and other conditions of appointment of the members of the Lion Conservation Authority shall be such as may be prescribed.

(5) No act or proceeding of the Lion Conservation Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Lion Conservation Authority.

38ZD. (1) The Lion Conservation Authority may, with the previous sanction of the Central Government, appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

Officers and employees of the Lion Conservation Authority.

(2) The salary and allowances payable to and other terms and conditions of service of officers and other employees of the Lion Conservation Authority shall be as may be prescribed.

38ZE. (1) The Lion Conservation Authority shall have the following powers and perform the following functions, namely:—

Powers and functions of the Lion Conservation Authority.

(a) to approve the Lion Conservation Plan prepared by the State Government under section 38ZK;

(b) to evaluate and assess various aspects of sustainable ecology and disallow ecologically unsustainable land use such as mining, industry and other projects within the sanctuary;

(c) to lay down normative standards for eco-tourism activities and guidelines for lion conservation;

(d) to provide measures for addressing conflicts of men and wild animals and to emphasis on co-existence in the sanctuary;

(e) to provide information on protection measures including future conservation plan, estimation of population of lion and its natural prey species, status of habitat, disease surveillance, mortality survey, patrolling, reports on untoward happenings and such other management aspects as it may deem fit including future plan conservation;

(f) to identify exclusive lion corridors and zones for the facilitation of movement of lions, on the basis of consultation with the State Government concerned;

(g) to approve, co-ordinate research and monitoring on lion, co-predators, prey, habitat, related ecological and socio-economic parameters and their evaluation;

(h) to facilitate and support biodiversity conservation initiatives through eco-development and the participation of the local communities living in and around the sanctuary in eco-tourism and conservation related activities;

(i) to ensure critical support including scientific, information technology and legal support for better implementation of the lion conservation plan;

(j) to facilitate ongoing capacity building programme for skill development of officers and staff of sanctuary; and

(k) to perform such other functions as may be necessary to carry out the purposes of this Act with regard to conservation of lions and their habitat.

(2) The Lion Conservation Authority may, in the exercise of its powers and performance of its functions under this Chapter, issue directions in writing to any person, officer or authority for the protection of the lion or sanctuary and such person, officer or authority shall be bound to comply with the directions:

Provided that no such direction shall interfere with or affect the rights of local communities living in and around the sanctuary.

Meetings of
the Lion
Conservation
Authority.

38ZF. (1) The Lion Conservation Authority shall meet at least once in every six months at such time and at such place as the Chairperson may think fit.

(2) The Chairperson or in his absence the Vice Chairperson shall preside over the meetings of the Lion Conservation Authority.

(3) All orders and decisions of the Lion Conservation Authority shall be authenticated by the Member-Secretary or any other officer of the said Authority duly authorized by the Member-Secretary in this behalf.

Central
Government
to provide
grants to the
Lion
Conservation
Authority and
Constitute of
Lion
Conservation
Authority
Fund.

38ZG. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Lion Conservation Authority grants and loans of such sums of money as the Government may consider necessary.

(2) There shall be constituted a Fund to be called the Lion Conservation Fund and there shall be credited thereto—

(i) any grants and loans made to the Lion Conservation Authority by the Central Government;

(ii) all fees and charges received by the Lion Conservation Authority under this Act; and

(iii) all sums received by the said Authority from such other sources as may be decided upon by the Central Government.

(3) The Fund referred to in sub-section (2) shall be utilised for meeting salary, allowances and other remuneration of the members, officers, and other employees of the Lion Conservation Authority and the expenses of the Lion Conservation Authority incurred in the discharge of its functions under this Chapter.

Maintenance
of accounts
and audit of
the Lion
Conservation
Authority.

38ZH. (1) The Lion Conservation Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Lion Conservation Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Lion Conservation Authority to the Comptroller and Auditor-General of India.

Annual report
of the Lion
Conservation
Authority.

38ZI. The Lion Conservation Authority shall prepare in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

Annual and
Audit Report
to be laid
before
Parliament.

38ZJ. The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Central Government, and the reasons for the non-acceptance, if any, of any of such recommendations, and the audit report to be laid, as soon as may be after the reports are received, before each House of Parliament.

Lion
Conservation
Plan.

38ZK. (1) The State Government shall prepare a Lion Conservation Plan including staff development and deployment plan for the proper management of the sanctuary, so as to ensure—

(a) protection of the sanctuary and providing specific habitat inputs for a viable population of lions, co-predators and prey animals without distorting the natural prey-predator ecological cycle in the habitat;

(b) initiatives and activities to encourage participation of local communities in the conservation process and eco-tourism.

(2) Subject to the provisions contained in this Act, the State Government shall, while preparing a Lion Conservation Plan, ensure the agricultural, livelihood, developmental and other interests of the people living in and around the sanctuary.

(3) Save as for voluntary relocation on mutually agreed terms and conditions, provided that such terms and conditions satisfy the requirements laid down in this sub-section, no forest dwellers shall be resettled or have their rights adversely affected for the purpose of creating inviolate areas for lion conservation unless—

(i) the process of recognition and determination of rights and acquisition of land or forest rights of the forest dwelling persons is complete;

(ii) the concerned agencies of the State Government, in exercise of their powers under this Act, establish with the consent of the forest dwellers in the area, and in consultation with independent ecological and social scientists familiar with the area, that the activities of the forest dwellers or the impact of their presence upon wild animals is sufficient to cause irreversible damage and shall threaten the existence of lions and their habitat;

(iii) the State Government, after obtaining the consent of the forest dwellers inhabiting the area, and in consultation with independent ecological and social scientists familiar with the area, have come to a conclusion that other reasonable options of co-existence, are not available;

(iv) resettlement or alternative package has been prepared providing for livelihood for the affected individuals and communities and fulfills the requirements given in the National Relief and Rehabilitation Policy;

(v) the informed consent of the Gram Sabha concerned, and of the persons affected, to the resettlement programme has been obtained; and

(vi) the facilities and land allocation at the resettlement location are provided under the said programme, otherwise their existing rights shall not be interfered with."

3. In section 55 of the principal act, after clause (ac), the following clause shall be inserted, namely:—

Amendment
of section 55.

"(ad) Member-Secretary, Lion Conservation Authority;"

4. In section 59 of the principal Act, after the word, figures and letter "Chapter IVC", the word, figures and letter "Chapter IVD" shall be inserted.

Amendment
of section 59.

5. In section 60 of the principal Act, in sub-section (3), after the word, figures and letter "Chapter IVC", the word, figures and letter "Chapter IVD" shall be inserted.

Amendment
of section 60.

6. In section 63 of the principal Act, in sub-section (1), after clause (gvi), the following clauses shall be inserted, namely:—

Amendment
of section 63.

"(gvii) qualification and experience of experts or professionals under clause (e) of sub-section (2) of section 38ZB;

(gviii) the salaries and allowances and other conditions of appointment of the members under sub-section (4) of section 38ZC;

(gix) the form in which the annual statement of accounts of Lion Conservation Authority shall be prepared under sub-section (1) of section 38ZH;

(gx) the form in which and the time at which the annual report of Lion Conservation Authority shall be prepared under section 38ZI."

STATEMENT OF OBJECTS AND REASONS

The State of Gujarat is home to some of the last living Asiatic Lions. While their numbers have been steadily increasing, the species are still considered to be 'endangered'. A sustainable solution to ensure the protection of lions can only emerge from within an inclusive and comprehensive framework, which must be the result of a consensus formed at the national level.

The increasing population of the Asiatic Lion has led to a unique problem of habitat and crowding. By pushing the boundaries of the areas inhabited by lions from the forests to nearby local villages and towns, the chances of man-animal conflict increase. As a result, exclusive lion zones and corridors need to be established to ensure the existence of adequate habitat.

The foundation of any conservation strategy is the pattern of ownership that it advocates. A strong emphasis on community control should be considered. The local communities living around the Gir Sanctuary as well as the forest officials have played an undeniable role in the conservation of the Asiatic Lion. Thus, community control and the participation of local populations in the conservation process should be institutionalized and encouraged.

Furthermore, a 'Project Lion', along the lines of the 'Project Tiger' should be considered in order to facilitate adequate funding and awareness. This can be supplemented with an encouragement of eco-tourism. Addressing these issues can help create the framework necessary for the sustainable and long-term conservation of the Asiatic Lion.

The Bill, therefore, seeks to amend the Wildlife (Protection) Act, 1972 with a view to provide for—

- (i) constitution of the Lion Conservation Authority;
- (ii) conferreing powers and functions of the Lion Conservation Authority, so as to include—
 - (a) approval of Lion Conservation Plan prepared by State Governments;
 - (b) lay down normative standards, guidelines for tiger conservation in the buffer and core areas of Lion reserve, apart from ensuring their due compliance;
 - (c) providing information on protection measures including future conservaiton plan, lion estimation, disease surveillance, mortality survey, patrolling, reports on untowards happenings and such other management aspects as it may deem fit, including future plan for conservation;
 - (d) approve and co-ordinate research on lion, its habitat and related ecological and socio-economic parameters.
 - (e) facilitate and support bio diversity conservation through eco-development and people's participation as per approved management plans, and to support similar initiatives in adjoining areas.
- (iii) preparing the Annual Report of the Lion Conservation Authority and sub-mission of the audited report to the Central Government for laying before Parliament.
- (iv) preparation of the Lion Conservation Plans by State Governments including staff development and deployment, protection, habitat inputs, addressing the livelihood concerns of local people and compatibility of forestry operations in the adjoining Forest Divisions; and
- (v) ensuring the agricultural, livelihood, developmental and other interests of people living inside forests or in Lion bearing forest areas.

Hence, this Bill.

NEW DELHI;
November 28, 2017.

KIRIT PREMJBHAI SOLANKI

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to provide for the constitution of the Lion Conservation Authority. It also provides for appointment of the officers and other employees to the Authority. It also provides that Central Government shall provide grants and loans to the Authority for being utilised for the purposes of the Bill. It further provides for constitution of the Lion Conservation Authority Fund in which all grants, loans made by the Central Government, fees and charges etc. received by the Authority shall be credited. The expenditure relating to States shall be borne by the Consolidated Fund of the State Government concerned. The Bill, therefore, if enacted, will involve recurring expenditure of rupees two hundred Crore per annum which shall be charged from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees fifty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill provides for the constitution of the Lion Conservation Authority to which the Central Government may prescribe by rules—

- (i) the salaries, allowances and other conditions of appointment of members of the Authority;
- (ii) the terms and conditions of service of officers and other employees of the Authority;
- (iii) the form in which the annual statement of accounts of the Authority is to be prepared; and
- (iv) the form and time for submitting annual reports of the Authority to the Central Government.

As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 230 OF 2017

A Bill to provide for the prevention, diagnosis, treatment and control of the spread of tuberculosis and for the protection of the rights of patients affected by the tuberculosis disease and for matters connected therewith or incidental thereto.

WHEREAS the continued spread of tuberculosis is a matter of grave concern to all and there is an urgent need for the prevention and control of the said disease;

AND WHEREAS there is a need to protect and secure the rights of persons who are affected with tuberculosis and vulnerable to the said disease;

AND WHEREAS there is a necessity for effective care, support and treatment for tuberculosis;

AND WHEREAS the General Assembly of the United Nations has adopted the Sustainable Development Goals, which call for a reduction in tuberculosis-related deaths and the World Health Organization has adopted the End TB Strategy for a reduction in the incidence of Tuberculosis by 2035 through collective global efforts;

AND WHEREAS the Republic of India, being a signatory to the aforementioned Goals and Strategy, it is expedient to give effect to the said Goals and Strategy.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Tuberculosis (Prevention and Control) Act, 2017.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government, may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “Aadhaar” means Aadhaar number issued by the Unique Identification Authority of India under sub-section (3) of section 3 of the Aadhaar (Targeted Delivery of Financial and other Subsidies Benefits and Services) Act, 2016;

(b) “discrimination” means any act or omission which directly or indirectly, expressly or by effect, immediately or over a period of time,—

(i) imposes any burden, obligation, liability, disability or disadvantage on any person or category of persons, based on one or more tuberculosis-related grounds; or

(ii) denies or withholds any benefit, opportunity or advantage from any person or category of persons, based on one or more tuberculosis-related grounds,

and the expression “discriminate” to be construed accordingly;

(c) “guidelines” means any statement or any other document issued by the Central Government indicating policy or procedure or course of action relating to tuberculosis to be followed by the Central Government, State Governments, Governmental and non-Governmental organisations and establishments and individuals dealing with prevention, control and treatment of tuberculosis;

(d) “HIV-positive person” means a person whose HIV test has been confirmed positive;

(e) “Multi-drug Resistant Tuberculosis (MDR-TB)” means a strain of the tuberculosis bacteria resistant to two of the most effective anti-tuberculosis drugs available, isoniazid and rifampicin;

(f) “notification” means a notification published in the Official Gazette;

(g) “NIKSHAY” means a web based solution for monitoring of tuberculosis patients developed by the National Informatics Centre;

(h) “person” includes an individual, a Hindu Undivided Family, a company, a firm, an association of persons or a body of individuals, whether incorporated or not, in India or outside India, any corporation established by or under any Central or State Act or any company including a Government company incorporated under the Companies Act, 1956, any Limited Liability Partnership under the Limited Liability Partnership Act, 2008, any body corporate incorporated by or under the laws of a

country outside India, a co-operative society registered under any law relating to cooperative societies, a local authority and every other artificial juridical person;

(i) “prescribed” means prescribed by rules made by the Central Government or the State Government, as the case may be;

(j) “Revised National Tuberculosis Control Program (RNTCP)” means the program launched by the Ministry of Health and Family Welfare in 1997;

(k) “State Government” in relation to a Union territory, means the Administrator of that Union territory appointed by the President under article 239 of the Constitution;

(l) “tuberculosis” means an infectious disease caused by a bacterium, *Mycobacterium Tuberculosis* that is spread through the air; and

(m) “tuberculosis-affected person” means an individual who is suffering from any strain of the tuberculosis disease.

CHAPTER II

PROHIBITION OF DISCRIMINATION

Prohibition of discrimination.

3. No person shall discriminate against the tuberculosis-affected person on any ground including any of the following, namely:—

(a) the unfair treatment in, or in relation to employment or occupation;

(b) the denial or discontinuation of, or unfair treatment in, healthcare services;

(c) the denial or discontinuation of, or unfair treatment in educational establishments and services thereof;

(d) the denial or discontinuation of, or unfair treatment with regard to, the right of movement;

(e) the denial or discontinuation of, or unfair treatment with regard to the right to reside, purchase, rent or otherwise occupy, any property;

(f) the denial of access to, removal from, or unfair treatment in, Government or private establishment in whose care or custody a person may be;

(g) the isolation or segregation of a tuberculosis-affected person.

CHAPTER III

MOLECULAR TESTING AND DAILY DOSAGE TREATMENT

Central and State Governments to take measures.

4. The Central Government and every State Government, as the case may be, shall take all measures as it deems necessary and expedient for the prevention of spread of tuberculosis, in accordance with the guidelines.

Molecular Testing and daily dose of Multi-drug Resistant (MDR-TB) Tuberculosis.

5. (1) The measures to be taken by the Central Government or the State Government under section 4 shall include the measures for providing, as far as possible, Molecular Testing methods for diagnosis and daily dosage treatment for those living with Multi-drug Resistant (MDR-TB) Tuberculosis, in particular.

(2) The Central Government shall issue necessary guidelines in respect of protocols for tuberculosis relating to Molecular Testing and Daily Dosage treatment, which shall be applicable to all persons and shall ensure their wide dissemination.

Availability of latest anti-tuberculosis drugs.

6. The Central Government shall take steps to ensure the introduction and availability of the latest anti-tuberculosis drugs in all public hospitals and Government-run pharmacies.

7. No diagnostic centre or laboratory shall conduct a diagnostic test for tuberculosis or Multi-drug Resistant Tuberculosis except in accordance with the guidelines laid down for such test under this Act.

Guidelines for testing centres.

CHAPTER IV

DIGITAL DATABASE AND TRACKING OF TUBERCULOSIS TREATMENT AND CARE

8. Every public and private hospitals and clinics shall notify tuberculosis patients under their treatment and care on the web-based NIKSHAY platform under the Revised National Tuberculosis Control Programme to facilitate real time tracking of treatment and care such patients.

Mandatory notification of Tuberculosis patients.

9. The Central Government and every State Government shall take measures to ensure that every Tuberculosis-affected person is enrolled under Aadhaar to ensure unique identification of patients seeking care and facilitate direct benefit transfers under the welfare measures mentioned under Chapter VI of this Act.

Enrolment under Aadhaar for Tuberculosis patients seeking treatment.

CHAPTER V

IDENTIFICATION OF VULNERABLE SECTIONS OF THE POPULATION

10. (1) Every State Government shall, with the assistance from the Central Government, carry out identification of the poor and vulnerable sections of the population within the jurisdiction of each tuberculosis program in such manner as may be prescribed.

Identification of vulnerable sections of the population.

(2) The identification under sub-section (1) shall include, but shall not be limited to women, children, below poverty line households and HIV-positive persons.

11. Every State Government shall, within six months of the Act coming into force, present the Central Government with a list of vulnerable sections within every tuberculosis program and formulate a plan to create awareness and initiate preventive measures about disease among such vulnerable sections.

State Government to present list of vulnerable sections to the Central Government.

CHAPTER VI

WELFARE MEASURES BY CENTRAL AND STATE GOVERNMENT

12. (1) The Central Government and every State Government shall take measures to facilitate better access to welfare, access to persons infected or affected by tuberculosis, which shall include but will not be limited to:

Nutritional, financial and psycho-social support for Tuberculosis patients.

(a) nutritional support, if malnutrition or undernourishment is detected, under the public distribution scheme or any other related food security scheme;

(b) financial support, under a health insurance or coverage scheme, for below poverty line patients to reduce out of pocket expenditure;

(c) psychological and social support, through free counseling, for patients and their families.

(2) Without prejudice to the provisions of sub-section (1), the Central and State Governments shall frame schemes to address the needs of tuberculosis-affected women and children as well those from vulnerable sections of society, including those who are HIV positive.

13. The Central Government and State Government shall formulate tuberculosis related information, education and communication programmes which are non-discriminatory.

Tuberculosis related awareness programs.

Guidelines for care, etc. of children and HIV-persons affected by tuberculosis.

14. The Central Government shall lay down guidelines for care, support and treatment of children affected with tuberculosis and HIV-positive persons affected by tuberculosis.

CHAPTER VII

NATIONAL AND STATE TUBERCULOSIS ELIMINATION BOARDS

Constitution of the National Tuberculosis Elimination Board.

15. (1) The Central Government shall, by notification in the Official Gazette, constitute a National Tuberculosis Elimination Board, to facilitate the eradication of tuberculosis in the country.

(2) The National Board shall include,—

(a) The Union Minister of Health and Family Welfare— *Chairperson*;

(b) The Secretary, Union Ministry of Health and Family Welfare— *Member*;

(c) representatives from the Indian Council of Medical Research to be nominated by the Central Government in such manner as may be prescribed— *Member*;

(d) representatives from Health Departments of every State Government to be nominated by the Central Government in such manner as may be prescribed— *Member*;

(e) medical practitioners from private medical hospitals and clinics to be nominated by the Central Government in such manner as may be prescribed— *Member*;

(f) members from affected communities to be nominated by the Central Government in such manner as may be prescribed— *Member*; and

(g) representatives from non-Governmental Organisations working in the field of prevention, control and treatment of tuberculosis to be nominated by the Central Government in such manner as may be prescribed— *Member*.

(3) The salary and allowance payable to and other terms and conditions of service of members of the National Board shall be such as may be prescribed.

Functions of the National Board.

16. The National Board shall,—

(a) formulate a comprehensive strategy to ensure the elimination of the disease, with an aim to achieving national and international commitments;

(b) keep track of new medical diagnostic technologies and anti-tuberculosis drugs and ensuring their easy availability;

(c) provide incentives to the private sector to assist in the elimination of tuberculosis;

(d) create awareness and prevention strategies on the basis of the mapping and identification conducted by every State Government under section 10;

(e) track the activities of the Ombudsman appointed under section 18;

(f) receive quarterly reports from the State Tuberculosis Elimination Boards;

(g) ensure that adequate financial, nutritional and psycho-social support is provided to tuberculosis-affected patients under a variety of Government schemes; and

(h) take decisions regarding any other policy or scheme related to tuberculosis and the rights of the patients seeking treatment and care for the said disease.

17. (1) Every State Government shall, by notification in the Official Gazette, constitute a State Tuberculosis Elimination Board to carry out the functions of this Act.

Constitution of State Tuberculosis Elimination Boards.

(2) The State Tuberculosis Elimination Boards shall consist of a Chairperson and such other number of members as may be determined by the State Government in consultation with the National Board.

(3) The salary and allowance payable to Chairperson and other member of the State Tuberculosis Elimination Board shall be such as may be prescribed.

CHAPTER VIII

APPOINTMENT OF OMBUDSMAN

18. (1) Every State Government shall appoint one or more Ombudsman—

Appointment of Ombudsman.

(a) possessing such qualification and experience as may be prescribed, or

(b) designate such number of officers not below the rank of District Magistrate, to exercise such powers and discharge such functions, as may be conferred on Ombudsman under this Act.

(2) The terms and conditions of the service of an Ombudsman appointed under clause (a) of sub-section (1) shall be such as may be prescribed by the State Government.

(3) The Ombudsman appointed under sub-section (1) shall have such jurisdiction in respect of such areas or areas as the State Government may, by notification, specify.

19. (1) The Ombudsman shall, upon a complaint made by any person, inquire into the violation of the provisions of this Act, in relation to healthcare services by any person, in such manner as may be prescribed by the State Government.

Powers of Ombudsman.

(2) The Ombudsman shall maintain records of complaints in such manner as may be prescribed.

20. The complaints shall be made to the Ombudsman in such manner, as may be prescribed.

Procedure of complaint.

21. The Ombudsman shall, after giving an opportunity of being heard to the parties, pass such order, as he deems fit, giving reasons therefor.

Reasonable opportunity of being heard.

22. All authorities including the civil authorities functioning in the area for which the Ombudsman has been appointed under section 18 shall assist in execution of orders passed by the Ombudsman.

Authorities to assist Ombudsman.

23. The Ombudsman shall, after every six months, report to the State Government, the number and nature of complaints received, the action taken and orders passed in relation to such complaints and such report shall be published on the website of the Ombudsman and a copy thereof be forwarded to the Central Government.

Report to State Government.

CHAPTER IX

PENALTIES

24. Whoever fails to comply with any order given by an Ombudsman within such time as may be specified in such order shall be liable to pay a fine which may extend upto ten thousand rupees and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which the failure continues.

Penalty for failure to comply with orders of Ombudsman.

25. No person shall subject any other person or persons to any detriment on the ground that such person or persons have taken any of the following actions namely:—

Prohibition of victimization.

(a) made complaint under this Act;

(b) brought proceedings under this Act against any person;

(c) furnished any information or produced any document to a person exercising or performing any power or function under this Act; or

(d) appeared as a witness in a proceeding under this Act.

Court to try offences.

26. No court other than the court of Judicial Magistrate First Class shall take cognizance of an offence under this Act.

CHAPTER X

MISCELLANEOUS

Act to have overriding effect.

27. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time in force or in any instrument having effect by virtue of any law other than this Act.

Protection of action taken in good faith.

28. No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Ombudsman or any member thereof or any officer or other employee or person acting under the direction either of the Central Government, the State Government, or Ombudsman in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or guidelines made thereunder or in respect of the publication by or under the authority of the Central Government, the State Government or Ombudsman.

Delegation of powers.

29. The Central Government or the State Government, as the case may be, may, by general or special order, direct that any power exercisable by it under this Act shall, in such circumstances and under such conditions, if any, as may be mentioned in the order, be exercisable also by an officer subordinate to that Government or the local authority.

Central Government to make guidelines.

30. The Central Government may, by notification, make guidelines consistent with this Act and any rules thereunder, generally to carry out the provisions of this Act.

Power to remove difficulties.

31. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Power of Central Government to make Rules.

32. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of State Governments to make Rules.

33. (1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be, after it is made before the Legislature of that State.

STATEMENT OF OBJECTS AND REASONS

Although tuberculosis is a preventable and treatable disease, yet it continues to be a serious public health epidemic in India. India bears the highest tuberculosis burden in the world, accounting for 23 per cent. of the global incidence of active tuberculosis patients. It is estimated that 1,400 Indians die every day due to tuberculosis. Since India is a signatory to the World Health Organization's 'End TB Strategy' and the United Nations' Sustainable Development Goals, the Ministry of Health and Family Welfare has formulated the National Strategic Plan to eliminate Tuberculosis by 2025.

To supplement the strategies outlined within this Plan, the Bill aims to address all aspects of the diagnosis, treatment, prevention and control of the spread of tuberculosis as well as the rights of the patients seeking care. It mandates the creation of a National Tuberculosis Elimination Board, which will be the apex body directing all efforts to combat the disease along with State-level Boards. It also provides for appointment of an Ombudsman to address the grievances of patients and related stakeholders.

The Bill prohibits certain discriminatory acts that stigmatize patients and their families and mandates the Central Government and State Governments to undertake welfare measures to provide financial, nutritional and psycho-social support to patients from vulnerable sections of the population. To facilitate the tracking of tuberculosis treatment and care, the Bill makes it mandatory for both public and private hospitals and clinics to notify tuberculosis patients under their care on the web-based NIKSHAY portal and encourage all patients seeking care to enroll under Aadhaar.

Tuberculosis is India's most severe public health crisis and combating it will require the collective and sustained effort of all stakeholders. The Bill aims to ensure that India will achieve its goal to eliminate tuberculosis by 2025 and it seeks to achieve the above objects.

Hence, this Bill.

NEW DELHI;
November 27, 2017.

KIRIT PREMJI BHAI SOLANKI

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the Central Government and every State Government, as the case may be, shall take all measures as it deems necessary and expedient for the prevention of spread of tuberculosis, in accordance with the guidelines. Clause 5 provides for measures to be taken by the Central Government or the State Government for providing Molecular Testing methods for diagnosis and daily dosage treatment for those living with Multi-drug Resistant (MDR-TB) Tuberculosis. Clause 10 provides for every State Government to carry out identification of the poor and vulnerable sections of the population within the jurisdiction of each tuberculosis program. Clause 12 provides that the Central Government and every State Government to take measures to facilitate better access to welfare, access to persons infected or affected by tuberculosis including nutritional support, financial support and social support. Clause 15 provides that the Central Government shall constitute a Board to be known as the National Tuberculosis Elimination Board. Clause 17 provides for constitution of the State Tuberculosis Elimination Boards. Clause 18 provides for appointment of Ombudsman. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees one hundred crore from the Consolidated Fund of India.

A non-recurring expenditure of about rupees fifty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make guidelines consistent with the proposed legislation and rules thereunder to carry out its provisions. Clause 32 of the Bill empowers the Central Government to make rules for carrying out the provisions of this Act. As matters in respect of which rules may be made under the aforesaid provisions are matters of procedure and administrative detail only, the delegation of legislative power is, therefore, of a normal character.

BILL NO. 19 OF 2018

A Bill to provide for right to free and compulsory education from primary to university level to the children of farmers living in drought prone areas and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Right to Free and Compulsory Education for Children of Farmers Living in Drought Prone Areas Act, 2018.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "college" means an educational institution owned or controlled by the Central Government or the State Government which imparts higher education;

(c) 'child' means a male or female who has attained the age of five years but not attained the age of twenty-five years;

(d) "drought prone areas" means the areas consistently receiving below normal rainfall and includes such areas which in the opinion of Central Government are drought prone areas and declared as such, by notification in the Official Gazette, in consultation with the State Governments concerned;

(e) "farmer" means a person who performs agricultural related works and has no income from any source other than agriculture;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "school" means any school recognised by the State Government or the Central Government; and

(h) "University" means any university or deemed university recognised by University Grants Commission (UGC) or All India Council for Technical Education (AICTE) or Medical Council of India.

Right of every child to free and compulsory education in any school or college or university.

3. (1) Every child of a farmer living in drought prone area shall have the right to free and compulsory education in a neighbourhood school or college or university till completion of his graduation.

(2) No child shall be liable to pay any kind of fee or charge or expenses for pursuing and completing the education till graduation or any other equivalent degree.

(3) Any child above the age of five years and not been admitted in any school shall be admitted in a class appropriate to his age:

Provided that a child who is directly admitted in a class appropriate to his age, shall, in order to be at par with others, have the right to receive special training, in such manner and within such time as may be prescribed:

Provided further that a child so admitted to school shall be entitled to get free education till he completes his graduation or equivalent degree.

(4) Every child shall be provided books, uniform, shoes, school bags, water bottle and other stationery items required for his study in any school or college or university free of cost.

(5) Every child shall be provided such amount of scholarship as may be prescribed by the appropriate Government which shall be payable to the parents of the child for encouraging them not to withdraw their children from school to help them in earning livelihood.

Central Government to ensure free education to children in drought affected areas.

4. The Central Government shall, with the assistance of the State Government concerned in whose jurisdiction the drought affected area falls, ensure free education till graduation to the children of farmers living in drought prone areas in such manner as may be prescribed.

5. The appropriate Government shall maintain adequate supply of free mid-day-meal and potable water to the children studying in educational institutions through tankers or through other means as it may consider appropriate in the drought prone areas.

Provision of free mid-day-meal and potable water to the children in drought prone areas.

6. The Central Government shall, after due appropriation made by Parliament, by law, in this behalf, provide adequate funds to the State Governments for carrying out the purposes of this Act.

Central Government to provide funds

7. The provisions of this Act shall be in addition to and not in derogation of the provisions in any other law, for the time being in force.

Act not in derogation of only other law.

8. (1) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

Over sixty per cent. of India's total land is under agriculture and nearly twenty-three per cent. covered by forests. Though, India is no longer an "agricultural economy", around seventy per cent. of its rural households still depend primarily on agriculture for their livelihood.

In India, the failure of the monsoons result in water shortages, resulting in below-average crop yields. This is particularly true of major drought-prone regions. Large numbers of areas in various parts of the country particularly in the States of Jharkhand, Bihar, Madhya Pradesh, Odisha, Andhra Pradesh, etc. are frequently affected by unprecedented drought and play havoc in such areas. The onset of drought is slow and the impact is multi-dimensional. One of the most obvious ways of breaking out of the cycle of poverty is education. Unfortunately, education is the most severely affected aspect of children's life in the event of drought and indebtedness. Children are often withdrawn from school and compelled to work on the field or look for jobs, or simply migrate with their parents. Their education needs to be compromised, so they don't go to bed hungry.

In the event of food insecurity and drought, younger children often migrate with their parents, in search of better livelihoods. According to the report, these young children are vulnerable to hazards at work sites which their parents are exposed to. These children are perhaps the most vulnerable to the worst kinds of child labour. In a desperate situation, children are forced to contribute to the family income. Meanwhile, the children who are left behind to take care of the elder members of the family are expected to juggle between their education and responsibilities at home.

It is, therefore, necessary that the appropriate Government shall provide free and compulsory education to every child of farmers living in drought prone areas along with a scholarship or consolation amount to ensure their education and to remove their debts and poverty.

Hence, this Bill.

NEW DELHI;
December 8, 2017.

CHANDRAKANT KHAIRE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that every child of a farmer living in drought prone areas shall have a right to free and compulsory education in a neighbourhood school or college or university till completion of his graduation. Clause 5 provides for provision of free mid day meal and potable water to the children studying in educational institutions in drought prone areas. Clause 6 provides that the Central Government shall provide funds to the State Government for carrying out the provisions of this Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees five hundred crore will be involved from the Consolidated Fund of India per annum.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 20 OF 2018

A Bill further to amend the Unlawful Activities (Prevention) Act, 1967.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called Unlawful Activities (Prevention) Amendment Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After section 23 of the Unlawful Activities (Prevention) Act, 1967, the following sections shall be inserted, namely:—

Insertion of new sections 23A to 23C.

"23A. (1) The Central Government shall, by notification in the Official Gazette, set up a Special Court in every State capital to try the offences of terrorist acts.

Setting up of Special Courts to try the offences of terrorist acts.

(2) The Special Court shall consist of—

(a) two judges of the Supreme Court;

(b) one judge from the High Court to be appointed on rotation basis;

(c) one retired judge of the Supreme Court; and

(d) one retired judge of the High Court,

to be appointed by the Central Government in such manner as may be prescribed.

(3) The salary and allowances payable to and other terms and conditions of service of the Judges mentioned under clauses (c) and (d) of sub-section (2) shall be such as may be prescribed.

23B. The Special Court shall dispose of every case of terrorist act within a period of forty-five days from the date of framing of charges.

Special Court to try cases within forty-five days.

23C. No appeal shall lie in any Court against the order of the Special Court."

Restriction of appeal against the order of the Special Court.

STATEMENT OF OBJECTS AND REASONS

According to Global Terrorism Report 2017, India is among top ten terrorism affected countries of the world. In the year 2016, 929 terrorist attacks occurred in India which claimed the lives of 340 people. The day of 28th November, 2008 is an unforgettable day. On this day terrorist attack happened on India's financial capital, Mumbai, after this attack India's GDP growth rate shrunk to 7 per cent. yearly while India's GDP growth rate was moving ahead at the rate of 9.3 per cent till the year 2008. Report released by Moody's Investors Services said that terrorist attacks in India have impacted its economy negatively in the long run. According to Moody's its study tells that economic activities have been slowed considerably due to terrorist attacks and it impacted the economy in long term.

Terrorism impacts the economy in many ways, apart from direct loss due to attacks, it is not easy to make conducive environment for the investors with the presence of terrorism. On the other hand, widespread expenditure occurs on establishment and maintenance of anti-terrorism system, weapon, other defence materials, arrangement of human resources and training etc. Terrorism has also direct and deep ill-effects on tourism.

Government cost to take debt has risen due to terrorist attacks. Cost of debt had risen from 0.41 to 0.65 in countries worst affected by terrorism. International Monetary Fund's researchers R. Barry Johnston and Oana M. Nedelescu said in their paper, titled "The Impact of Terrorism on Financial Markets" issued in 2005, discusses some of the direct and indirect economic consequences of terrorism and *inter alia* states that—

“.....The direct economic costs of terrorism, including the destruction of life and property, responses to the emergency, restoration of the systems and the infrastructure affected, and the provision of temporary living assistance, are most pronounced in the immediate aftermath of the attacks and thus matter more in the short run.....

The indirect costs of terrorism can be significant and have the potential to affect the economy in the medium term by undermining consumer and investor confidence.....

Finally, over the longer term, there is a question of whether the attacks can have a negative impact on productivity by raising the costs of transactions through increased security measures, higher insurance premiums, and the increased costs of financial and other counter-terrorism regulations.....”

According to Global Terrorism Report 2017, India ranks on 8th place in the terrorism affected countries of the world. Country's status can be ascertained from this that India's condition is worse than Libya.

Thus, if India is to become economic and strategic power then it has to complete the judicial process within forty-five days against arrested terrorists to make India terror-free. The need is to set up Special Courts in capital of every State to try the cases of terrorist acts and complete judicial process within forty-five days. Terrorists should not have right to appeal. The Central Government should also ensure the compliance to the decision of Special Courts within ten days and it should be made mandatory to inform the Special Courts about the enforcement of punishment within prescribed time. High security to terrorists and to keep them alive on State's spending increases the economic burden of the Government.

The Bill, therefore, seeks to amend the Unlawful Activities (Prevention) Act, 1967 with a view to set up Special Court in every State capitals to try the offences of terrorist acts punishable under the Act. It also provides for disposal of every case of terrorist act under the Act within a period of forty-five days of occurrence of such terrorist act and make an order in this behalf. It further provides for implementation of the decision of the Special Court by the Central Government within ten days of making such order.

Hence this Bill.

NEW DELHI;
December 8, 2017.

CHANDRAKANT KHAIRE

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for setting up Special Court in every State capitals to try the offences of terrorist acts. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five hundred crore would be involved as recurring expenditure per annum.

A non-recurring expenditure of about rupees two hundred crore is also likely to be involved.

BILL NO. 23 OF 2018

A Bill to amend the Juvenile Justice (Care and Protection of Children) Act, 2015.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After section 18 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the following section shall be inserted, namely:—

"18A. Notwithstanding anything in this Act, in case of an offence of murder, rape, sedition or terrorist activities alleged to have been committed by a child above the age of fourteen years, trial of such child shall be conducted as an adult."

Insertion of new section 15A.

Child above the age of fourteen years who commits the offence of murder, rape, sedition or terrorist activities to be tried as an adult.

STATEMENT OF OBJECTS AND REASONS

There is a need of a strict juvenile or child crime justice system in India. From the legal point of view, juvenile crime is an illegal act perpetrated by a child below eighteen years of age who is presented before a Children's Court for legal action. As per the Juvenile Justice (Care and Protection of Children) Act, 2015, a child between the age of sixteen to eighteen years is required to be tried as an adult for committing any serious or heinous offence subject to the provisions of this Act. The rate of child crimes is increasing day by day in Indian society. Besides, its nature is getting complex day by day. The reason behind such a phenomenon is urbanization and industrialization which has created such an environment wherein most of the families have become unsuccessful in controlling their children. Moral values are shattering due to rise in personal freedom and excess of competition has forced the children to go astray.

Juveniles are now committing grave and heinous crimes such as rape, murder etc. by taking resort to the fact they are juveniles they go scot free and again commit such crimes. The main culprit of Delhi's Nirbhaya case was a juvenile and the person who raped a medical girl student of Maulana Azad Medical College of Delhi was a Juvenile. Both these incidents are a blot on humanity and both the criminals are free today as they are juveniles and there is a chance that they may again be ready to commit such crimes. So such crooked criminals should not get away just for the fact that they are juveniles.

It must also be ensured that Juvenile Justice Act provides benefits to the children wherein the methods of trial or grounds for parole are different. Children are just kept under observation. Children are thrown into organised crimes by criminals to take benefit from it. This misuse of the Act is done by the criminals by using children in committing crimes. The misuse of the law will have to be stopped which has been enacted with good intent.

Even the Supreme Court Bench sought to enquire from the Central Government whether the accused involved in such heinous crimes as murder, rape or abduction is allowed to go free only because of the fact that he is yet to attain eighteen years of age. The apex Court also observed that there should be a clear distinction between serious and less serious crimes perpetrated by the juvenile. At present, Juvenile Justice Board takes action against juveniles below eighteen years of age. However, Justice J.S. Verma Committee constituted after the gang rape in Delhi in December 2012 rejected the suggestion of decreasing the age of juvenile upto sixteen years.

Involvement of juveniles continuously in heinous crimes is also a significant reason. In this context, National Crime Record Bureau data makes it clear that there has been one hundred and fifty eight per cent. increase in such cases of rapes by minors in Delhi only. It is surprising that as far as increase in general crimes by juvenile is concerned it is only thirty four per cent. The more disturbing thing is that their involvement in the incidents of theft and dacoit has increased by two hundred per cent. The juveniles involved in these crimes were from sixteen to eighteen years of age. Recent data disclose that more than thirty three thousand juveniles have been arrested in more than twenty five thousand incidents during the year 2012-13. Out of which more than one thousand children were from seven to twelve years of age, eleven thousand children were in the age group of twelve to sixteen years and rest of the juveniles were in the age group of sixteen to eighteen years. Needless to say that today organized crime has taken the shape of an industry due to the ineffective criminal justice system. As a matter of fact, a need to enact a separate law to deal with juvenile crimes was felt because the United Nations issued a Joint declaration for children rights wherein a child up to eighteen years of age was declared as a minor.

Secret sources reveal that at present a notorious terrorist organisation like *Lashkar-e-Taiba* has instructed its fighters to mention their age as below eighteen years if caught by security personnel of India. It is certainly a big blot reflecting the failure of Juvenile Justice

Act of the country. Besides this, adult criminals connected with organised crimes are making gross misuse of this law. This is the reason why the Ministry has now concentrated on the crimes committed and their nature by juveniles not heeding to the matter of age of the Juvenile. The important fact is that children are at present becoming grownups at a very tender age because of influence of virtual media and cyber world. It is turning out to be very dangerous to provide mobiles and internet facility to the children from a very early age.

If we do not seriously ponder over these issues, there is every likelihood that organised and sexual crimes keep on flourishing. Hence, it is high time to take strict measures against juveniles who are committing heinous crimes.

The Bill, therefore, seeks to amend the Juvenile Justice (Care and Protection of Children) Act, 2015 with a view to provide that every child above the age of fourteen years alleged to have committed the offence of murder, sedition, rape and terrorist activities shall be tried as an adult and be punished accordingly.

Hence this Bill.

NEW DELHI;
December 8, 2017.

CHANDRAKANT KHAIRE

BILL NO. 83 OF 2018

A Bill to promote awareness and prevent the incidence of thalassemia in newborn children with a view to avoid lifelong suffering and hardship and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent, and
commencement.

1. (1) This Act may be called the Thalassemia Prevention Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means,—

(i) in relation to the Central Government or any establishment wholly or substantially financed by that Government or a Cantonment Board constituted under the Cantonments Act, 2006, the Central Government;

(ii) in relation to a State Government or any establishment, wholly or substantially financed by that Government or any local authority other than a Cantonment Board, the State Government; and

(iii) in relation to a Union territory with Legislature, means the Administrator of the Union territory appointed by the President under article 239 of the Constitution;

(b) "couple" means the legally married Indian man and woman including marriages solemnized under all personal laws;

(c) "establishment" includes a Government establishment and private establishment;

(d) "foetus" means a human organism during the period of its development, beginning on the fifty-seventh day following fertilisation or creation (excluding any time during which its development has been suspended) and ending at birth;

(e) "Government establishment" means a corporation established by or under a Central Act or State Act or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 2 of the Companies Act, 2013 and includes a Department of the Government;

(f) "gynaecologist" shall have the same meaning as assigned to it in the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994;

(g) "medical institution" means any maternity nursing home or hospital offering maternity treatment and care;

(h) "prescribed" means prescribed by rules made under this Act; and

(i) "thalassemia" means a disease in which a child or an adult becomes anaemic because of genetic defect of haemoglobin.

3. It shall be the responsibility of the appropriate Government to ensure implementation of the provisions of this Act.

Appropriate Government to implement the provisions of this Act.

4. The Central Government shall, by notification in the Official Gazette, formulate a national policy for the prevention of thalassemia in the country.

Formulation of a national policy for prevention of thalassemia.

5. The gynaecologist or the head of the medical institution, who is consulted or approached by a pregnant woman for maternity treatment and care shall be responsible for prevention of birth of a child afflicted with thalassemia major.

Responsibility of the gynaecologist or head of the medical institution for prevention of birth of child affected with thalassemia.

41 of 2006.

18 of 2013.

57 of 1994.

Accountability
of medical
institutions
and
gynaecologist.

6. The gynaecologist or the head of the medical institution who is consulted or approached by a pregnant woman for maternity treatment and care, shall ensure that—

(a) every woman who becomes pregnant for the first time shall, as soon as her pregnancy is confirmed, be tested for thalassemia carrier or trait;

(b) where the pregnant woman is tested positive for thalassemia carrier or trait, her husband be advised to undergo a similar test, as soon as may be;

(c) where the husband is tested positive for thalassemia carrier or trait, the couple stands a risk of carrying a thalassemia major foetus be counselled about thalassemia major and its lifelong implications for the unborn child and be referred to a Genetics Specialist for a further gene mapping study called Family Gene Study (FGS), as part of the pre-natal diagnosis;

(d) wherein the foetus is found to be afflicted with thalassemia major in the pre-natal diagnosis, the option of medical termination of pregnancy, according to the provisions of Medical Termination of Pregnancy Act, 1971 shall be offered to the pregnant woman.

34 of 1971.

Issuance of
Ante-natal
Health Cards.

7. (1) The appropriate Government shall ensure that the gynaecologist or the head of the medical institution issue to each individual in the couple, an Ante-natal Health Card wherein the thalassemia carrier or trait information, along with cautionary notes for guidance in the case of future pregnancies are clearly stated.

(2) In addition to the issuing of Ante-natal Health Card under sub-section (1), the gynaecologist or the head of the medical institution shall ensure that where the pregnant woman has already undergone a test for thalassemia carrier or trait during her earlier pregnancy and her husband has also been tested positive for thalassemia carrier or trait, the couple shall be counselled about the risk involved in the foetus likely to be thalassemia major whether the couple have an Ante-natal Health Card or not:

Provided that in case when no information is available about the couple's carrier or trait status, they shall be subjected to the procedure described under section 6 (as in the case of a first pregnancy).

Appropriate
Government
to set up
Genetic
Counselling
and diagnostic
centres for
thalassemia.

8. The appropriate Government shall initiate, design and set up a strong and effective system for Genetic Counselling and diagnostic centres across the country and shall take measures to educate the public, especially women, about thalassemia major and its implications for the life of the newborn, in order to facilitate informed making and to encourage thalassemia carrier or trait test at the first pregnancy.

Appropriate
Government
to make
available
requisite
pathological
facilities.

9. The appropriate Government shall be responsible for making available the requisite pathological facilities in all medical institutions to carry out thalassemia carrier or trait test, family gene studies, pre-natal diagnosis and medical termination of pregnancy where sufficient evidence is provided to the effect that the foetus is afflicted with thalassemia major.

Central
Government
to provide
funds.

10. The Central Government shall, after due appropriation made by the Parliament by law on this subject, provide adequate funds to such State Governments which offers to implement similar schemes in their respective States.

Offences and
penalties.

11. (1) Whoever contravenes any of the provisions of this Act or any rules made thereunder, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment for a term which may extend upto three years or with fine which may extend upto ten thousand rupees or with both.

(2) An offence punishable under this Act shall be bailable.

(3) Where a gynaecologist or the head of the medical institution contravenes any of the provisions of this Act or rules made thereunder, he shall be punishable with imprisonment

for a term which may extend upto three years or with fine which may extend upto fifty thousand rupees or with both.

(4) In case it is established that a child afflicted with thalassemia major is born as a result of contravention of provisions of this Act or rules made thereunder, the Court trying the offence may award a compensatory payment which may extend upto twenty lakh rupees in favour of the mother of that child to assist in the lifelong treatment of that child, including a bone marrow transplantation to be made by the person convicted of having contravened the provisions of this Act or rules made thereunder, or by the appropriate Government as may be decided and awarded by the Court.

12. Where any offence punishable under this Act or rules made thereunder have been committed by a company, every person who, at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed guilty of the offence and shall be liable to be prosecuted against and punished accordingly.

Offences by companies.

13. (1) No Court shall take cognizance of an offence under this Act except on a complaint made by —

Cognizance of offences.

(a) the appropriate Government concerned or any officer authorised on this matter by the appropriate Government.

(b) a person who is directly or indirectly affected by the offence.

Explanation.—For the purpose of this clause "person" includes a social organisation.

(2) No Court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence punishable under this Act.

(3) When a complaint has been made under clause (b) of sub-section (1) of section 14, the Court may, on demand by such person, direct the appropriate Government to make available copies of relevant records in its possession to such person.

14. (1) The gynaecologist or the medical institution who is consulted or approached by a pregnant woman under this Act shall maintain all records, charts, forms, reports, consent letters and all other documents required to be maintained under this Act.

Miscellaneous.

(2) Every record maintained under sub-section (1) shall be preserved for a period of five years or for such period in such manner as may be prescribed.

(3) Every record maintained under sub-section (1) shall, at all reasonable times, be made available to the appropriate Government or to any other person authorised by the appropriate Government in this behalf in such manner as may be prescribed.

15. No suit, prosecution or other legal proceeding shall lie against the Central or State Government or any other officer authorised by the Central or State Government for anything which is in good faith, done or intended to be done in pursuance of the provisions of this Act.

Protection of action taken in good faith.

16. (1) In such a case where any difficulty arises in giving effect to the provisions of this Act, the Central Government may by order published in the Official Gazette, make such provisions not inconsistent with the provisions of the Act, as appear to it to be necessary or expedient for removing the difficulty.

Power to remove difficulties.

Provided that no order shall be made under this section after expiry of a period of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament and be ratified.

17. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

(2) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modifications in the rule or both the Houses agree that the rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

(3) In particular and without prejudice to the generality of the foregoing power, such rules may provide for:

(a) the manner in which the gynaecologist or head of the medical institution shall keep records of the screening test and other procedures required under the provisions of section 8;

(b) the form in which consent of the pregnant woman has to be obtained under section 8;

(c) the facilities to be provided, equipments and other standards to be maintained by the Central and State Governments for facilitating screening, family gene study, pre-natal diagnosis and medical termination of pregnancy;

(d) the form in which Ante-natal Health Card showing the thalassemia carrier or trait status of the women is to be issued under section 7; and

(e) any other matters that may be required to be prescribed.

STATEMENT OF OBJECTS AND REASONS

Thalassemia is one of the commonest inherited genetic disorders in our country. One in every six hundred and twenty-five pregnancies ends in the birth of a thalassemia major child. It is a cruel disease and the children afflicted by it have to undergo painful blood tests and blood transfusions every two or three weeks for the rest of their lives, starting six months of age. The parents of these children also suffer psychological trauma from watching their child undergo repeated needle insertions. Furthermore, the disease entails a grave financial implication for the parents, as blood transfusion, filters and other devices, iron chelation medicines, etc. which are needed, are very expensive.

Thalassemia is a disorder of the haemoglobin molecule. Beta thalassemia (the commonest of the haemoglobin disorders that are seen in our country) is caused by a mutation in the haemoglobin gene of the parents. In our country, four per cent. of the population carries this mutation and such individuals are called thalassemia trait or carriers or thalassemia minors. They are asymptomatic and lead normal lives. It is not possible to identify who is a carrier without a blood test.

When two individuals who are both asymptomatic carriers marry and have a pregnancy there is a twenty-five per cent. chance that the foetus inherits the mutated thalassemia gene from both the parents and thus develops thalassemia major soon after birth. The foetus could however inherit one or both normal genes from the parents and be a carrier or absolutely normal. The chance of this is seventy-five per cent.

Since four per cent. of the general population are thalassemia carriers, one in every twenty-five per cent. individuals could be a carrier. In some communities like Sindhis, Punjabis, Gujaratis, Marwaris, etc. the incidence is even higher. Consanguineous marriages within their own communities add to the risk. It is reported that about ten to twelve thousand children with thalassemia major, are born in our country every year.

Thalassemia major is preventable and medical science has the answers, but ignorance and social taboos have come in the way of effectively preventing the birth of such children. Therefore, there is a need to bring in statutory regulations to put in place an effective prevention program.

Hence this Bill.

NEW DELHI;
November 30, 2017.

DHARAM VIRA GANDHI

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for formulation of a national policy for prevention of thalassemia. Clause 6 provides for accountability of gynaecologist or the head of the medical institution for testing thalassemia carrier or trait to a pregnant woman. Clause 7 provides for issuance of Ante-natal Health Cards containing information regarding thalassemia carrier or trait to a pregnant woman or the couple. Clause 8 provides for setting up of genetic counselling and diagnostic centres for thalassemia by the appropriate Government. Clause 9 provides for making available requisite pathological facilities in all medical institutions to carry out thalassemia carrier or trait test by the appropriate Government. Clause 10 provides that the Central Government shall provide adequate funds for State Government for implementing similar schemes in their respective States. Clause 14 provides for maintenance of all records, charts, forms, reports, consent letters and all other documents of a pregnant woman by the gynaecologist or the medical institution. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty crore would be involved as recurring expenditure per annum.

A non-recurring expenditure of about rupees ten crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 11 OF 2018

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2018.

Short title.

2. In article 124, after clause (7), the following clauses shall be inserted, namely:—

Amendment
of article
124.

"(8) The Chief Justice of India shall not be eligible for further office either under the Government of India or under the Government of any State or in any Public Sector Undertaking after he has ceased to hold his office.

(9) A Judge of the Supreme Court shall not be eligible for further office either under Government of India or under the Government of any State or in any Public Sector Undertaking after he has ceased to hold his office."

STATEMENT OF OBJECTS AND REASONS

Independence of judiciary is an essential attribute of rule of law, which is a basic feature of the Constitution. Judiciary must be free from all pressure including the pressure from executive as well as psychological pressure relating to their appointment after retirement. The Judges are required to ensure the independence and impartiality of judiciary by keeping them free from any allurements of employment under the Government after their retirement. The Constitution nowhere restricts or prohibits retired Judges of the Hon'ble Supreme Court and the Hon'ble High Courts to hold further employment either under the Government of India or under any of the State Government. The Constitution, on the other hand specifically prohibits the Chairman of Union Public Service Commission and its Members, the Chairmen and the members of State Public Service Commissions for further employment after their retirement, either under the Government of India or under the Government of the State. Likewise article 148(4) provides that the Comptroller and Auditor General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

The Hon'ble Judges of the Supreme Court, various High Courts, the Comptroller and Auditor General of India, the Chairman of Union Public Service Commission, the Chairmen and members of the State Public Service Commissions are constitutional functionaries and they should be kept free from all kinds of allurements of employment under the Government after cessation of their respective offices. It is presumed that re-appointment of Judges, after cessation of office would have effect of undermining the independence and fairness of judiciary.

In the present scenario, the Judges are getting handsome salaries, other amenities, perks and post retirement benefits. The Judges of the Supreme Court and the High Courts are adjudicating rights of citizens which have been jeopardized by the Government. The Judges are coming in contact with the Government on every step. As such need of the moment is to introduce similar provisions in the Constitution for prohibiting the Chief Justice and the Judges of the Supreme Court from holding any employment under the Government of India or under the Government of State after their retirement.

Hence this Bill.

NEW DELHI;
December 29, 2017.

GOPALCHINAYYA SHETTY

BILL NO. 18 OF 2018

A Bill further to amend the Special Marriage Act, 1954.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Special Marriage (Amendment) Act, 2018.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different States.

43 of 1954.

2. In the Special Marriage Act, 1954, in section 4, after clause (c), the following clause shall be inserted, namely:—

Amendment
of section 4.

"(a) parents of both the parties to the marriage have given their consent to the marriage:

Provided that in case of absence of the consent of parents of the female, the age of the female for the solemnization of the marriage shall be twenty-one years;"

STATEMENT OF OBJECTS AND REASONS

Our country has traditional values and the children grow up with customs and moral values. But, the number of inter-caste marriages by persuading and misguiding the girls in the country is increasing day by day. Among these, the number of girls having inter-caste marriage between the age of eighteen to twenty-one years is the maximum. The situation gets worse when the girls who enter into inter-caste marriage in a frivolous manner are tortured and their life becomes hell.

The age of eighteen years for girls is such an age when the process of mental, emotional and intellectual development gets pace and the mind does not focus on one thing. Their mind are filled with questions and the slightest binding on freedom seems them obstructing and force them on undertaking the things right or wrong in their own way only.

Since marriage is a very important part of the life, it is necessary that if a girl does inter-caste marriage, the consent of her parents must be taken keeping in view her future life or the age stipulated for marriage of a girl which at present is 18 years be made 21 years so that she could be ponder over the correctness of inter-caste marriage very efficiently.

Thus, the Bill seeks to amend the Special Marriage Act, 1954 with a view to save the life of such innocent girls who enter into inter-caste marriage by persuasion or frivolity.

Hence this Bill.

NEW DELHI;
December 29, 2017.

GOPAL CHINAYYA SHETTY

BILL NO. 75 OF 2018

A Bill to provide for housing facility to destitute senior citizens, widows and orphan children and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Housing Facility for Destitute Senior Citizens, Widows and Orphan Children Act, 2018.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) “destitute senior citizen” means any person who has attained the age of sixty years and has no facility for shelter or has no relative to take care of and provide shelter to him;

(c) “Fund” means the Destitute Senior Citizens, Widows and Orphan Children Welfare Fund constituted under section 9;

(d) “orphan” means a child who is below fourteen years of age and has no parents or willing and capable legal or natural guardian or other relatives to take care of him;

(e) “prescribed” means prescribed by rules made under this Act; and

(f) “widow” means any woman who has not remarried after the death of her husband and who does not have any facility for shelter.

National
Policy for
housing for
destitute
senior citizens,
widows and
orphans.

3. The Central Government shall, as soon as possible, by notification in the Official Gazette, frame a national policy for providing housing facilities to the destitute senior citizens, widows and orphans.

Establishment
of residential
centres.

4. (1) The appropriate Government shall establish residential centres for the destitute senior citizens, widows and orphans.

(2) Every residential centre shall have the capacity of minimum eighty and maximum two hundred persons to live in at a time.

(3) Every residential centre shall be arranged in such a way to accommodate two orphans, one senior citizen and one widow in one unit.

Residential
centres to
have proper
facilities for
the
beneficiaries.

5. The appropriate Government shall—

(a) provide housing, food, water, medicine, security and the minimum resources necessary to lead a balanced and healthy life in every residential centre;

(b) ensure utilization of Government schemes running in the area for necessary resources, education, health and food in every residential centre;

(c) ensure easy access to every eligible person to reside in the residential centre;

(d) make efforts to develop mutually dependent relation for residents living in residential centre to lead a mutually humanitarian, emotional, safe and happy life; and

(e) formulate policy for setting up domestic production unit for employment generation in every residential centre.

Constitution
of
Management
Committee.

6. (1) The appropriate Government shall, by notification in the Official Gazette, constitute a Managing Committee to monitor, supervise and coordinate the functioning of the residential centres established under section 4.

(2) The Management Committee shall consist of—

(i) the Chairperson of the local body, *ex-officio*, Chairperson;

(ii) a public servant, *ex-officio* member;

(iii) a senior-most senior citizen from the residential centre, member;

(iv) an oldest widow from the residential centre, member; and

(v) an eminent social worker, member;

to be nominated by the appropriate Government in such manner as may be prescribed.

(3) The appropriate Government shall appoint such number of staff to the residential centres as may be prescribed, from time to time.

(4) The salary and allowances payable to and other term and conditions of service of Chairperson, members other than ex-officio and staff of the Managing Committee and the procedure to be followed in the discharge of its functions shall be such as may be prescribed.

7. It shall be the duty of the appropriate Government to implement the national policy formulated under section 3.

Implementation of the policy by the appropriate Government.

8. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, constitute a Fund to be known as the Destitute Senior Citizens, Widows and Orphan Children Welfare Fund for carrying out the purposes of this Act.

Constitution of Destitute Senior Citizens, Widows and Orphan Children Welfare Fund.

(2) The Central Government and the State Governments shall contribute to the Fund in such ratio as may be prescribed.

(3) The Fund shall be utilized for providing facilities to the residents of residential centres.

9. The appropriate Government shall review the quality and progress of residential centres established under section 4 in such manner as may be prescribed.

Appropriate Government to review the quality and progress of residential centres.

10. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds for the implementation of the provisions of the Act.

Central Government to provide requisite funds.

11. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Act not in derogation of any other law.

12. (1) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

During the last one decade the old age population in India has risen by 39.3 *per cent*. This segment of population is expected to rise by 45-50 *per cent*. in the coming decades. Because of continuous replacing of joint families by nuclear families due to ongoing trend and continuous migration the old aged persons have to suffer from several problems including loneliness. There are more than a thousand old age homes but their situations and problems could not be improved and sorted out permanently. In similar ways, there are a large number of widows in the country who face discrimination not only on family front but on social front also. In a number of cases, they do not have shelter and other necessary assistance to lead a dignified life. Now-a-days there is a need to create a total and conducive environment whereby they could spend rest of their life in a productive and happy manner. In addition to this, there is a large section of population of orphan kids who do not have any shelter and are living a destitute life. Most of these kids are engaged as child labour or have fallen prey to drug addiction, some are addicted to drugs, some are involved in flesh trade or illegal trafficking.

There is need to provide an integrated provision in this regard so that these three socially neglected classes could be brought under one roof where these three can line as one family. Widow shall play role of mother to orphan kids and neglected old age person play a role of guardian to these two. By this, a familial environment will be provided for these three classes.

The Bill seeks to establish residential centres for destitute senior citizens, widows and orphans along with shelter, food, clothes and other basic facilities of life to lead a dignified humanitarian, emotional, safe and happy life based on mutually supported relation. The most important objective behind the establishment of the centre is that the widow house, senior citizen house and orphanage established with different methods in the country shall be brought under one roof.

Hence this Bill.

NEW DELHI;
February 8, 2018.

DHANANJAY B. MAHADIK

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for establishment of the residential centres all over the country for use of the destitute senior citizens, widows and orphans. Clause 5 provides that appropriate Government shall ensure residential centres to have proper basic facilities to the beneficiaries. Clause 6 provides for constitution of Management Committee to monitor, supervise and coordinate the functioning of the residential centres. Clause 8 provides for constitution of a Destitute Senior Citizens, Widows and Orphan Children Welfare Fund. Clause 10 provides that Central Government shall provide adequate funds for carrying out the purposes of the Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five hundred crore may involve as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 91 OF 2018

A Bill to provide for setting up of a mechanism to maintain, preserve and protect the identified and unidentified ancient, historical or archaeological sites, remains, monuments, modules and carvings in the country and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Historical Heritage Conservation Act, 2018.
- (2) It extends to whole of India.
- (3) It shall come into force with immediate effect.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—
 - (a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) “historical or archaeological site” means areas where ruins or remains of historical or archaeological importance are available or believed to be available for more than hundred years including such geographical sites which have importance in Indian Civilization or in any period of the history of national freedom movement and also includes—

(i) such portion of land adjoining the site of an ancient monument as may be required for fencing or covering in or otherwise preserving such site; and

(ii) the means of access to, and convenient inspection of, historical or archaeological sites.

(c) “archaeological remains” includes the following which have been in existence for not less than one hundred years—

(i) any coin, module, handwritten document, relics or other artifacts or works of artisan;

(ii) any material or article which is associated with a construction or cave;

(iii) any material or article which is a witness of science, art, craftsmanship, literature, religion, tradition, moral ethics or politics of previous eras;

(iv) any material or article of historical importance; and

(v) any material or article whose archaeological importance fulfills the purposes of this Act and so declared through a notification in the Official Gazette.

(d) “historical monuments” means any structure, memorial, stupa, graveyard, cave, stone modules, embossed write up or monoliths of historical, archaeological or artistic interest which have been in existence for not less than one hundred years including such building, fort, memorials which have importance in Indian Civilization or in any period of the history of national freedom movement and also includes—

(i) remains of an ancient monument;

(ii) site of an ancient monument;

(iii) such portion of land adjoining the site of an ancient monument as may be required for fencing or covering in or otherwise preserving such monument; and

(iv) the means of access to, and convenient inspection of, an ancient monument.

(e) “historical heritage” includes historical or archaeological site and remains, antiquities and historical monument of significant historical importance relating to Indian culture, civilization or national freedom movement;

(f) “non-governmental organisation” means an organisation, institution, educational centre or research institution engaged in the field of preservation, protection and maintenance of historical heritage for a period of not less than three years with a good track record of its activities; and

(g) “prescribed” means prescribed by rules made under this Act.

(2) The words and expressions used in this Act but not defined herein and defined in the Ancient Monuments and Archaeological Sites and Remains Act, 1958 shall have the same meaning as assigned to them in that Act.

Setting up of a mechanism to maintain, preserve and protect historical heritages.

3. (1) The Central Government shall, by notification in the Official Gazette, set up a mechanism to maintain, preserve and protect historical heritage in all the States of the country.

(2) The mechanism set up under sub-section (1) shall incorporate,—

(a) entrusting the responsibility of maintaining, preserving and protecting historical heritage which have been declared as a symbol of national importance or otherwise in any State of the country to an established non-governmental organisation;

(b) criteria for the selection of non-governmental organisations for entrusting the work of preservation of historical heritage;

(c) constitution of body at national level to monitor and regulate the functioning of non-governmental organisations and obtain annual or regular reports from such organizations;

(d) providing adequate financial assistance to the non-governmental organisations entrusted with the task of preservation of historical heritage under this Act on the recommendation of body constituted under clause (c);

(e) entrusting responsibility on the non-governmental organisations responsible for maintenance, preservation and protection of historical heritage to create awareness among people about the importance of preservation and protection of historical heritage;

(f) provision of appropriate legal action against the non-governmental organisations involved in irregularities;

(g) making the Government department related to maintenance of historical heritages as the nodal agency to implement the mechanism set up under sub-section (1) and to regulate and control the body constituted under clause (c);

(h) provision to empower the non-governmental organisations to collect minimum fee from the visitors after obtaining permission thereof from the body constituted under clause (c); and

(i) entrusting responsibility of excavation, maintenance and supervision of other heritages at local level to the non-governmental organisations.

Implementation of the provisions of the Act.

4. (1) It shall be the duty of the appropriate Government to ensure effective implementation of the provisions of this Act.

(2) The appropriate Government shall monitor and review, from time to time, the functioning of non-governmental organisations engaged in preservation and protection of historical heritage in such manner, as may be prescribed.

Central Government to provide adequate funds.

5. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the State Governments for carrying out the provisions of this Act.

Penalty.

6. If any non-governmental organisation indulges in any act which is or is likely to be detrimental to the preservation and protection of any historical heritage, the appropriate Government may initiate such action against such organisation as it may deem fit including imposition of fine and cancellation of recognition.

Power to make rules.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

India is a unique Nation in terms of its culture and heritage where the live examples of its thousands year old culture and civilization still exists in the form of various historical heritage monuments, sites and ruins etc. These are the proof of our golden and glorious history which have an importance and respect not only for Indians but for foreign nationals as well. But it's very unfortunate that some of the heritage monuments neither earmarked or identified nor being maintained appropriately. Many historical building are losing their original shapes due to renovation and construction being done in their adjacent buildings. Proper monitoring, protection and security is very important. The experience in this regard is not very positive so far. Therefore, a policy is required to be framed at community level in this regard. Apart from this, there is need to make efforts in this regard by entrusting non-government organizations for protection of heritage buildings. We may get its effective benefit if the responsibility of better management, regulation and monitoring system is handed over to the local people where the heritage is situated.

Hence this Bill.

NEW DELHI;
February 13, 2018.

DHANANJAY B. MAHADIK

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the setting up of a mechanism for maintenance, preservation and protection of historical heritage in the country. It also provides for the constitution of body at national level to monitor and regulate the functioning of non-governmental organisations. It further provides for adequate financial assistance to the Non-governmental organizations for carrying out the provisions of the Act. Clause 5 provides for adequate funds to the State Governments for carrying out the provision of the Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. At this stage, it is difficult to give an exact estimate of the expenditure to be incurred on it. However, it is estimated that a recurring expenditure of about rupees one thousand crore per annum will be incurred from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matter of detail only, the delegation of legislative power is of a normal character.

BILL NO. 261 OF 2017

A Bill to provide for compulsory career counselling and guidance to the students at school level in order to help them chart a proper career path and choose their professions accordingly and for matters connected therewith.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Compulsory Career Guidance Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

| | |
|--|--|
| 2. In this Act, unless the context otherwise requires,— | Definition. |
| (a) "appropriate Government" means in the case of a State, the Government of that State, and in all other cases, the Central Government; | |
| (b) "National Career Service" means the National Career Service (NCS) Project, Government of India, Ministry of Labour and Employment; | |
| (c) "National Review Committee" means the National Review Committee constituted under section 7; | |
| (d) "prescribed" means prescribed by rules made under this Act; | |
| (e) "stream" means a course of study or discipline chosen by a student on completion of his secondary or higher secondary grade Board Exams; | |
| (f) "technical education" shall have the same meaning assigned to it in the All India Council for Technical Education Act, 1987; and | |
| (g) "vocational training" means education and training which helps to train people with skills and knowledge that is required in a specific field, particularly in the labour market. | |
| 3. It shall be the responsibility of the appropriate Government to provide compulsory career counselling to the students in such manner as may be prescribed. | Compulsory Career Counselling to students. |
| 4. For the purposes of section 3, the appropriate Government, with the assistance of the National Career Service shall— | Appropriate Government to conduct Compulsory Career Counselling for all students before secondary or higher secondary grade Board exams. |
| (a) conduct career counselling and guidance sessions for every student, six months prior to the secondary and higher secondary grade Board exams; | |
| (b) ensure that career counselling guidance sessions are conducted by trained and qualified professionals; | |
| (c) ensure that students are well informed about the subjects and the combination thereof in the stream; | |
| (d) provide students a complete and comprehensive idea of the scope and jobs that may be available to them after choosing their respective stream; | |
| (e) ensure that students are well informed about the prospects and merits of vocational training and technical education; | |
| (f) take essential steps for improvement in studies of weak students; | |
| (g) grant scholarship to the students belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes along with the students, whose parents are living below poverty line to pursue higher education; | |
| (h) take available steps computer based training; and | |
| (i) undertake such other functions as it deem necessary for carrying out the purposes of this Act. | |
| 5. (1) The National Career Service shall submit an annual report to the Central Government mentioning the number of sessions conducted under section 4 along with the name of the schools and other detail in such manner as may be prescribed. | Annual report. |
| (2) The Central Government shall cause the report to be laid before both the Houses of Parliament. | |
| 6. (1) The Central Government shall, by notification in the Official Gazette, constitute a National Review Committee to evaluate the work of the National Career Service in such manner as may be prescribed. | Constitution of National Review Committee. |

(2) The National Review Committee shall consist of a Chairperson and such number of experts in the field of employment and training, retired teachers and principals as members to be appointed by the appropriate Government in such manner as may be prescribed.

(3) The salary and allowances payable to, and other terms and conditions of service of the Chairperson and other experts of the National Review Committee shall be such as may be prescribed.

Central
Government to
provide funds.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds to the State Government for carrying out the purpose of this Act.

Act not in
derogation of
other law.

8. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Power to
make rules.

9. (1) The Central Government may, by notification, make rules to carry out the purpose of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

History is said to be the greatest teacher of all time and if we were to learn from our past, then we can clearly see the fact that nations have been built and destroyed by the power of the youth. Our country is pushing its boundaries to move ahead and stand equally with the developed countries of the globe, but it has been struggling in reaching its goal as it fails to mobilize and use its strength in the right direction, the strength being the youth of this great nation.

Our country is plagued by the epidemic of unemployment and poverty as most of the students are unsure about their career goals and blindly end up following courses that bear no results for them. The General Enrollment Ratio (GER) in India drops in the level of higher education because most of the students drop out and wish to start working. These students must be informed about the merits of vocational and technical education, so that they can plan their future and move their career graph forward, instead of being confused and uncertain, as employment is the ultimate goal for most of them.

Education fails to be priority as most of the population is concerned with feeding themselves and their families. This Bill would help such students to identify their talents and would help them to focus their attention on skill development, thereby ensuring that they have a career even if they do not focus on formal higher education.

Every child needs to identify their true potential and every youth of this nation deserves to be employed in their relevant sector, and the positive change in that direction has to be made from the school level itself.

Hence this Bill.

NEW DELHI;
November 29, 2017.

R. DHIRUVANARAYANA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that appropriate Government shall provide career counselling to all students. Clause 4 empowers the appropriate Government with the assistance of National Career Service to conduct the career counselling sessions in the schools. Clause 5 provides for the constitution of the National Review Committee for carrying out the purposes of the Bill. It also provides for grants and scholarships to students belonging to poor economic backgrounds. Clause 7 provides for Central Government to provide adequate funds to the State Government. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure to the tune of rupees seven crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees eleven crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 113 OF 2018

A Bill to provide for the constitution of the National Poverty Alleviation Fund and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and extent.

1. (1) This Act may be called the National Poverty Alleviation Fund Act, 2018.
- (2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "absolute poverty" means the condition of the household below the food threshold level;

(b) "basic sectors" means the disadvantaged sectors including farmers, artisans, workers in the formal sector and migrant workers, workers in the informal sector, women, persons with disabilities, senior citizens, victims of calamities and disasters, youth and students, children and urban poor;

(c) "Fund" means the National Poverty Alleviation Fund constituted under section 3;

(d) "human development index" means the measure of performance of a country based on three outcomes of development namely, the state of health (measured by life expectancy at birth), the level of knowledge and skill (measured by a weighted average of adult literacy and enrollment rates) and the level of real income per capita, adjusted for poverty considerations as social indicators of the citizen's ability to lead a long and healthy life, to acquire knowledge and skills, and to have access to the resources needed to afford a decent standard of living highlighting;

21 of 1860.

(e) "non-Governmental organizations" means any organization registered under Societies Registration Act, 1860 focused on the upliftment of the basic sectors of society by providing advocacy, training, community organizing, research, access to resources, and other similar activities;

(f) "poor person" means a person or a group of persons,—

(i) living below the national or regional poverty line prescribed by the Central Government or the State Governments concerned, as the case may be, as per necessity, from time to time;

(ii) marked backward on the basis of human development index; and

(iii) excluded from the national development process on the grounds of particular gender or social group;

(g) "poverty alleviation" means the reduction of absolute poverty and relative poverty;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "relative poverty" means the gap between the rich and the poor;

(j) "self-help groups" means informal associations of people who choose to come together to find ways to improve their living conditions;

(k) "social mobilization" means the process to eradicate poverty of particular group or community by increasing awareness and to enable them to participate in decision making process in organized or collective way and to build up their skill and capacity;

(l) "urban poor" means individuals or families residing in urban centers and urbanizing areas whose income or combined household income falls below the poverty threshold and/or cannot afford in a sustained manner to provide their minimum basic needs of food, health, education, housing and other essential amenities of life;

(m) "workers in the formal sector" means workers in registered business enterprises who sell their services in exchange for wages and other forms of compensation;

(n) "workers in the informal sector" means poor individuals who operate businesses that are very small in scale and are not registered with any national government agency, and to the workers in such enterprises who sell their services in exchange for subsistence level wages or other forms of compensation; and

(o) "youth" means any person who has attained the age of fifteen years but has not attained the age of twenty-nine years.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the National Poverty Alleviation Fund for carrying out the purposes of this Act.

Constitution
of the
National
Poverty
Alleviation
Fund.

(2) The Central Government and the State Governments shall contribute to the Fund in such proportion as may be prescribed.

(3) Such other sums as may be received by way of donation, contribution or assistance or otherwise shall also be credited to the Fund.

Constitution
of the
National
Poverty
Alleviation
Board for
administering
the Fund.

4. (1) The Central Government shall set up a National Poverty Alleviation Board for the purpose of administering the Fund.

(2) The Board shall consist of—

(i) a Chairperson, to be appointed by the Central Government;

(ii) one representative each of the Union Ministries of Agriculture, Labour, Social Justice and Empowerment, Rural Development, Women and Child Development and Finance;

(iii) one representative of the NITI Aayog;

(iv) one representative of every State Government;

(v) three members representing the non-Governmental organisations, self-help groups and Labour Unions to be appointed by the Central Government in such manner as may be prescribed;

(vi) the Secretary of the Union Ministry of Housing and Urban Affairs who shall be ex-officio Secretary to the Board;

(3) The Central Government shall provide to the Board such number of officers and staff as may be required for its efficient functioning.

(4) The salary and allowances payable to and other terms and conditions of service of Chairperson, members, officers and staff of the Board shall be such as may be prescribed.

Duties of the
Board.

5. (1) The Board shall formulate policies and guidelines regarding welfare of the poor person, household or community.

(2) The Board shall utilize the Fund for the following purposes:—

(i) income generation, skill development, employment creation and production growth in different sectors such as agriculture, livestock, cottage and small industry based on local resources and raw materials;

(ii) improving primary health and literacy;

(iii) imparting technical education, providing employment training for youth;

(iv) providing small irrigation, facilities of drinking water, sanitation, rural road, rural energy and environment to render support for poverty alleviation as per necessity; and

(v) imparting training, organising seminar and field visit to build up the capacity of the person, household, community institution and staffs involved through the medium of social mobilization for conducting poverty alleviation programme.

Survey of
poor persons.

6. (1) Every State Government and the Union territory Administration, as the case may be, shall conduct a district-wise survey, in such manner and with such details of all poor persons, household or community within their respective jurisdictions and cause the same to be published in such manner and form, as may be prescribed.

(2) Any complaint or objection relating to inclusion or omission of name of any poor person, household or community shall be addressed to the District Magistrate concerned who shall, after due inquiry, decide upon the rectification of the records.

7. (1) The Central Government may, by notification in the Official Gazette, make rules

for carrying out the purposes of the Act.

Power to
make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for,—

- (a) the manner in which the Fund may be applied;
- (b) the conditions governing the grant of loans or subsidy;
- (c) the conditions governing grant-in-aid;
- (d) the standard of welfare measures and facilities to be provided out of the Fund;

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Poverty refers to a situation when people are deprived of the basic necessities of life. It is often characterized by inadequacy of food, shelter and clothes. In other words, poverty refers to a state of privation where there is a lack of essential needs for subsistence. Many people in India do not get two square meals a day. They do not have good dwelling units to live in. Their children do not get proper basic education.

Poverty is a widespread condition in India. Since Independence, poverty has been a concern of every successive Government. The percentage of persons below the Poverty Line in 2011-12 has been estimated as 25.7 per cent, in rural areas and 13.7 per cent, in urban areas. India is home to twenty two per cent, of the world's poor persons. Two hundred and sixty million people in the country do not have income to access a consumption basket. Eradication of poverty would ensure a sustainable and inclusive growth of economy and society.

It is necessary to uplift economic and social status of the poor persons, household or community through social mobilization to ensure their access to the basic services and facilities and to enable them to utilize it. There is also a need to build up their capacity so that they can exercise their right and actively participate in the decision making process. The need is also to do everything possible and within our limits to alleviate poverty from our country. Reduction of poverty in India is vital for the attainment of international goals.

It is imperative to establish a Fund for funding and implementation of various programmes related to poverty alleviation through active participation of poor and backward class of society and by providing grant and necessary assistance to the institutions involved in the activities for poverty alleviation.

Hence this Bill.

NEW DELHI;
March 27, 2018.

BOORA NARSAIAH GOUD

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a National Poverty Alleviation Fund to which the Central and State Governments shall contribute funds in such proportion as may be prescribed. Clause 4 provides for the constitution of a Board to administer the Fund. Clause 5 provides for the utilisation of Fund for income generation, skill development, promotion of literacy etc. Clause 6 provides for conducting of district-wise survey of all the poor persons, households or community covered under poverty alleviation. The expenditure relating to States shall be borne out of the Consolidated Funds of the respective States. However, the expenditure in respect of Union territories shall be borne out of the Consolidated Fund of India. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees twenty thousand crore will be involved.

A non-recurring expenditure of about rupees twenty-five thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 109 OF 2018

A Bill to provide for reservation of vacancies in posts and services in establishments in favour of economically backward farmers and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Reservation of Vacancies in Posts and Services for Economically Backward Farmers Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "establishment" means an establishment which is owned, established, controlled, managed or financed by the Central Government and includes—

(i) a Ministry or department or subordinate office or attached office of the Central Government;

(ii) a public sector undertaking or statutory authority constituted under any Central Act;

(iii) a corporation in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government;

(iv) a Government company as defined under clause (45) of section 2 of the Companies Act, 2013;

(v) an autonomous body, organisation or institution receiving grant or aid from the Consolidated Fund of India;

(vi) a university established by a Central Act and its affiliated colleges, including medical and engineering colleges and institutions;

(vii) a primary or secondary school or any other educational institution, which is wholly owned by the Government or receives grant or aid from the Government;

(b) "economically backward farmer" means a farmer whose annual income does not exceed rupees five lakhs per annum, occupying land as owner, tenant or share cropper measuring less than or equal to two hectares, not covered under any of the scheme of reservation and who does not belong to the Scheduled Castes, the Scheduled Tribes or the Other Backward Classes; and

(c) "prescribed" means prescribed by rules made under this Act.

3. (1) There shall be reserved such percentage of posts, not below five per cent. of total posts in every establishment, for economically backward farmers for appointment in civil services by direct recruitment.

Reservation of posts in establishments for economically backward farmers.

(2) The vacancies reserved for the economically backward farmers under sub-section (1) shall be filled in such manner as may be prescribed.

(3) The vacancies reserved for economically backward farmers during a calendar year and not filled in that year shall be carried forward to the next calendar year.

4. Every appointing authority shall maintain such documents and records and furnish every year a report to the Central Government on the appointments by direct recruitment of economically backward farmers, in such manner and at such time, as may be prescribed.

Maintenance of documents and records and furnishing of reports to appointing authority.

5. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulty.

Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of this Act.

6. The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force or any judgment, decree, order or direction of a court to the contrary regarding ceiling on reservation.

Overriding effect of the Act.

Power to
make rules.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The agriculture sector is characterised by instability in incomes because of various types of risks involved in production, market and prices. According to the Agriculture Census, the total number of operational holdings in India numbered 138.35 million with an average size of 1.15 hectares. Of the total holdings, eighty-five per cent. are in marginal and small farm categories of less than two hectares. These small farmers, though operating only on forty-four per cent. of land under cultivation, are the main providers of food and nutritional security to the nation. The estimates indicate that small and marginal farmers may account for more than ninety-one per cent. of farm holdings by the year 2030. The monsoons have become increasingly erratic and there is no assured water for irrigation. Agrarian debts are increasing, while income is fading. Farmers are committing suicide.

Prominent agrarian communities, such as the Jats in Haryana, Patels in Gujarat, Gujjars in Rajasthan and Marathas in Maharashtra have been strongly campaigning for reservation in the light of deteriorating financial conditions.

Therefore, farmers, irrespective of their caste and religion, should be given reservation in posts and services like the Scheduled Castes, the Scheduled Tribes and the Other Backward classes.

Hence this Bill.

NEW DELHI;
March 27, 2018.

BOORA NARSAIAH GOUD

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 114 OF 2018

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows :—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2018. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of
new section
29AA.

De-registration
of political
party by the
Election
Commission.

2. After section 29A of the Representation of the People Act, 1951, the following section shall be inserted, namely:— 43 of 1951.

“29AA. Notwithstanding anything contained in this Act or any other law, bye-law, rule or order for the time being in force, if a political party violates the model code of conduct by broadcasting conspiracy theories, fake news, sponsored disinformation campaigns, illegal psychographics or micro-targeting by big data, data theft, data mining or analytics on social media platforms with an intent to influence the elections, the Election Commission shall de-register or withdraw recognition of such political party:

Provided that prior to de-registration or withdrawal of recognition, the political party concerned shall be given a reasonable opportunity of being heard.”.

STATEMENT OF OBJECTS AND REASONS

There are increasing concerns that social media is undermining democracy by broadcasting conspiracy theories, fake news and sponsored disinformation campaigns. In a data-intensive society, winning an election might have less to do, with a candidate, political party or platform and more to do with buying and selling voters' data to hack democracy. Internet companies increasingly using data techniques to build detailed psychological profiles about voters that can be leveraged to deliver political advertisements and propaganda.

Political parties are hiring private firms to map voter constituencies, tailor political messaging and shape electoral outcomes through data-driven profiling. Firms such as Cambridge Analytica have already worked with politicians in countries such as the United Kingdom, the United States of America and Kenya to monitor, suppress and even deliver outright lies to voters. The strategic combination of big data analytics with computational propaganda and disinformation can distort political processes, spread skepticism and distrust, and interfere with a citizen's ability to make sound political decisions. But powerful political parties are increasingly leveraging big data to manufacture consensus, manipulate public opinion and subvert democratic processes.

We are dangerously unprepared to confront challenges at the intersection of individual privacy, social-media transparency and data-driven campaigning. Currently, no legislation covers the activity of political parties with respect to voter data. The Election Commission (EC) has not take up this issue of data protection for regulatory scrutiny. The EC has in the past issued guidelines to protect election integrity and restrained exit polls and also required candidates to disclose social media handles. However, much more needs to be done.

The Bill, therefore, seeks to amend the Representation of the People Act, 1951 with a view to empower the Election Commission to deregister a political party found violating the model code of conduct by broadcasting conspiracy theories, fake news, sponsored disinformation campaigns, illegal psychographics and micro-targeting by big data, data theft, mining or analytics on social media platforms with an intent to influence the elections.

Hence this Bill.

NEW DELHI;
March 28, 2018.

BOORA NARSAIAH GOUD

BILL NO. 209 OF 2017

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title. **1.** This Act may be called the Constitution (Amendment) Act, 2017.

Amendment of
article 124. **2.** In article 124 of the Constitution, in clause (2), for the words "sixty-five years", the words "seventy years" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Clause (2) of article 124 of the Constitution of India allows every Judge of the Supreme Court to hold office until he attains the age of sixty-five years. The age of retirement of Supreme Court Judges, which was fixed at sixty-two years in the beginning, was enhanced to sixty-five years by the Constitution (Fifteenth Amendment) Act, 1963. Since then, no revision has taken place in this regard.

The Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, in its 39th Report dated the 29th April, 2010, has recommended to raise the retirement age of the Judges of the High Courts from sixty-two to sixty-five. Hence, in view of this it is expedient and necessary to enhance the age of Supreme Court Judges from sixty-five years to seventy years. Further, most of the reasons adduced by the Fifth Central Pay Commission in support of its recommendation for increasing the age of retirement of the Central Government employees, such as global practices, increase in life expectancy, improved health standards, need for utilization of experience and wisdom of senior employees, etc., would also apply to the Judges. Besides this, after their retirement the Judges are being appointed by Government in various Tribunals, Appellate Tribunals, etc. which is antithesis and not in consonance as well as spirit of preamble to Constitution of India. The increase in age of retirement will altogether put a check on the re-employment of the Judges of the Supreme Court after retirement.

Independence of judiciary is an essential attribute of rule of law, which is one of the basic features of the Constitution. Judiciary must be free from all pressures including the pressures from executive as well as psychological pressure on the Judges related to their future after retirement. The Judges are required to ensure the independence and impartiality of judiciary by keeping themselves free from any allurements of employment under the Government after their retirement.

The Constitution specifically prohibits the Chairman of Union Public Service Commission and its Members, the Chairman of State Public Service Commission and its Members for further employment either under the Government of India or under the Government of any State. The Constitution on the other hand nowhere restricts or prohibits retired Chief Justice and Judges of the High Courts to hold further employment either under the Government of India or under any of the State Governments.

Article 148 (4) provides that the Comptroller and Auditor General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

The Chief Justice and Judges of the various High Courts, the Comptroller and Auditor General of India, the Chairman of Union Public Service Commission, the Chairman of the State Public Service Commission and the Members of these Commissions are constitutional functionaries and they should be kept free from all kinds of allurements of employment under the Government after cessation of their office. It is presumed that reappointment of Judges would have effect of undermining the independence and fairness of judiciary.

The Constitution prohibits the Comptroller and Auditor General of India, the Chairman, Public Service Commission and its members from getting employment after cessation of their office, however, no such bar is there with regard to the Chief Justice and the Judges of the Supreme Court.

In view of the present state of vacancies of Judges in the Supreme Court, it is extremely difficult to clear the heavy pendency of cases in the Supreme Court. Increasing the age of retirement by five more years would restrict occurrence of new vacancies on account of superannuation for the next five years during which time the existing backlog in vacancies could be cleared. This would have a clear impact on reduction of pendency of cases in the Supreme Court.

It is, therefore, proposed to increase the age of retirement of the Judges of Supreme Court from sixty-five years to seventy years.

NEW DELHI;
November 23, 2016.

MEENAKASHI LEKHI

BILL NO. 211 OF 2017

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2017.

Short title.

2. After article 324 of the Constitution, the following article shall be inserted, namely:—

Insertion of
new article
324A.

“324A. Notwithstanding anything in this Constitution, the Election Commission shall, as far as possible, endeavour to conduct elections to the House of the People and to the Legislative Assemblies of all States simultaneously.”.

Election
Commission
to Conduct
elections to
the House of
the People
and
Legislative
Assemblies of
all States
simultaneously.

STATEMENT OF OBJECTS AND REASONS

At present, general elections of Lok Sabha and State Legislative Assemblies are being held in different years and, in many cases, even at different periods of the same year. The tenure of both Lok Sabha and the State Legislative Assemblies have been fixed at five years by the Constitution.

Presently, the cost of holding elections for Lok Sabha and Legislative Assemblies of States and Union territories has been pegged at rupees four thousand and five hundred crores by the Election Commission.

Suggestions are being received from certain quarters that a scheme should be devised whereby the general elections to the Lok Sabha and the State Legislative Assemblies are held simultaneously.

The rationale given is that this will result in huge saving to the public exchequer, avoidance of replication of efforts on part of administration and law and order machinery in holding repeated elections and bring considerable savings to political parties and candidates in their election campaigns.

Another argument in support of the above suggestion is that now asynchronous Lok Sabha and Legislative Assembly elections including bye-elections result in prolonged enforcement of Model Code of Conduct with its concomitant adverse impact on development and welfare programmes.

Under the Parliamentary democracy envisaged in our Constitution, situations may arise from time to time, where the five years term of the Lok Sabha may have to be either curtailed or extended. The same would be the situation in relation to the State Legislative Assemblies. The proposal for simultaneous elections, however, would involve having fixed term for the Union and State Legislative bodies.

Hence this Bill.

NEW DELHI;

MEENAKASHI LEKHI

November 23, 2016.

BILL NO. 210 OF 2017

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2017.

Short title.

2. In article 124, after clause (7), the following clauses shall be inserted, namely:—

Amendment
of article 124.

"(8) The Chief Justice of India shall not be eligible for further office either under the Government of India or under the Government of any State or in any Public Sector Undertaking after he has ceased to hold his office.

(9) A Judge of the Supreme Court shall not be eligible for further office either under Government of India or under the Government of any State or in any Public Sector Undertaking after he has ceased to hold his office."

STATEMENT OF OBJECTS AND REASONS

Independence of judiciary is an essential attribute of rule of law, which is one of the basic features of the Constitution. Judiciary must be free from all pressures including the pressures from executive as well as psychological pressure on the Judges related to their future after retirement. The Judges are required to ensure the independence and impartiality of judiciary by keeping themselves free from any allurements of employment under the Government after their retirement.

The Constitution, specifically prohibits the Chairman of Union Public Service Commission and its Members, the Chairman of the State Public Service Commission and its Members for further employment either under the Government of India or under the Government of any State. The Constitution, on the other hand, nowhere restricts or prohibits retired Chief Justice and Judges of the Supreme Court to hold further office/employment either under the Government of India or under any of the State Governments.

The Chief Justice and Judges of the Supreme Court, the Comptroller and Auditor General of India, the Chairman of Union Public Service Commission, the Chairman of the State Public Service Commission and the Members of these Commissions are constitutional functionaries and they should be kept free from all kinds of allurements of employment under the Government after cessation of their office. It is presumed that reappointment of Judges would have effect of undermining the independence and fairness of judiciary.

The Constitution prohibits the Comptroller and Auditor General of India, the Chairman, Public Service Commission and its members from getting employment after cessation of their office. However, no such bar is there with regard to the Chief Justice and the judges of the Supreme Court.

In the present scenario, the Chief Justice and Judges are getting handsome salaries, other amenities, perks and post retirement benefits. The Chief Justice and Judges of the Supreme Court are adjudicating the rights of citizens which have been jeopardized by the Government. The Judges are coming in contact with the Government on every step. As such need of the moment is to introduce a provision in the Constitution of India for prohibition to hold any office employment by retired Chief Justices and Judges of the Supreme Court under the Government of India or under the Government of State.

Hence this Bill.

NEW DELHI;

MEENAKASHI LEKHI

November 23, 2016.

BILL NO. 44 OF 2018

A Bill further to amend the Constitution (Scheduled Castes) (Union Territories) Order, 1951.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Scheduled Castes) (Union Territories) Order (Amendment) Act, 2018.

Short title,
and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Schedule to the Constitution (Scheduled Castes) (Union Territories) Order, 1951,—

Amendment
of the
Schedule.

C.O. 32.

(i) in Part I.—Delhi,—

(a) for entry 8, the following entry shall be substituted, namely:—

"8. Balmiki Valmiki";

(b) for entry 10, the following entry shall be substituted, namely:—

"10. Jatava or Jatav, Mochi, Ramdasia, Ravidasi, Raidasi, Rehgarh or Raigar";

(c) for entry 11, the following entry shall be substituted, namely:—

"11. Balmiki, Valmiki";

(d) entry 12, shall be omitted; and

(e) for entry 20, the following entry shall be substituted, namely:—

"20. Gihara".

(ii) in Part II.—Chandigarh,—

(a) for entry 7, the following entry shall be substituted, namely:—

"7. Balmiki";

(b) for entry 9, the following entry shall be substituted, namely:—

"9. Jatav, Jatia, Rehgar, Raigar, Ramdasi or Ravidasi".

(iii) in Part III.—Daman and Diu, for entry 1, the following entry shall be substituted, namely:—

"1. Balmiki or Valmiki".

STATEMENT OF OBJECTS AND REASONS

As per provisions contained in articles 341 and 342 of the Constitution, the list of the Scheduled Castes and the Scheduled Tribes were notified by the Presidential Orders during the year 1950 and 1951 in respect of various States and Union territories respectively.

However, the connotation attached to the terms used for certain castes such as "Bhangi", "Chamar" or "Chuhra" is extremely derogatory. These words are not longer reminiscent of their etymological meaning and have acquired a derogatory connotation due to the context in which they are generally used in our society. These words are used by others to insult, abuse and deride the people belonging to the Scheduled Castes and are highly offensive in nature. Banning these words is important to prevent indignities, humiliation and harassment to the members belonging to these communities.

Correct usage of "Gihara" is also important to prevent neglecting the importance these communities attach to the name of their caste and also to prevent any inconsistency in the official usage of the name.

Hence this Bill.

NEW DELHI;
January 24, 2018.

MEENAKASHI LEKHI

FINANCIAL MEMORANDUM

The Bill seeks to amend the Constitution (Scheduled Castes) (Union territory) Order, 1951 in respect of Delhi, Chandigarh and Daman and Diu with a view to substitute names of certain castes which are derogatory and offensive in nature with new and correct names of castes which are in usage. In a way, no new castes are being added in list of Scheduled Castes in respect of three Union territories and as such no additional expenditure is involved on this account. The Bill, therefore, if enacted would not involve any additional recurring and non-recurring expenditure from the Consolidated Fund of India.

BILL NO. 192 OF 2017

A Bill to provide for compensation to victims of wild animals declared as vermin and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth year of the Republic of India as follows:—

1. (1) This Act may be called the Payment of Compensation to Victims of Vermin Wild Animals and Crop Raid Act, 2017.

Short title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) "carrying capacity" means the maximum population size of the species that the protected area can sustain indefinitely, given the food, habitat, water and other necessities available in that area.

(b) "crop raid" means an act of entering into a cultivated area by the wild animals and causing the damage to the entire crop;

(c) "Fund" means the Vermin Wild Animals and Crop Raid Compensation Fund constituted under section 7;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "Scheme" means the Scheme for compensation to persons affected by vermin wild animals and crop raid framed under section 4;

(f) "vermin" means noxious, objectionable or disgusting animals collectively, that appear in human habitation and poses harm to human lives, agricultural crops, domestic animals or which carry disease and includes any wild animal as declared as vermin under section 62 of the Wild Life Protection Act, 1972; and

53 of 1972

(g) "wild animal" shall have the same meaning as assigned to it under the provisions of the Wild Life Protection Act, 1972.

(2) The words and expression used but not defined in this Act shall have the same meanings as assigned to it under the Wild Life Protection Act, 1972.

Central Government to constitute an expert team in each State to notify wild animals as vermin.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute an Expert Team in each State to recommend for notification of wild animals which may be declared as vermin.

(2) The Central Government shall, on the recommendations of the Expert Committee constituted under sub-section (1) and after conducting carrying capacity study, notify wild animals causing or intending to cause harm to human life and property or causing destruction to agriculture crops, due to overpopulation in the protected areas and scattered over to human habitations and plantations as vermin.

(3) The Central Government shall also take necessary steps to contain the population of wild animals in the protected area and other habitats within the carrying capacity so as to prevent them from scattering over to the human habitations and plantations and causing or intending to cause crop raid, damage to human life and properties.

Central Government to formulate a Scheme for compensation to persons affected by vermin wild animals and crop raid.

4. (1) The Central Government shall, by notification in the Official Gazette, formulate a Scheme for payment of compensation to persons affected by vermin wild animals or crop raid.

(2) Without prejudice to the generality of the foregoing provision, the scheme shall include:—

(i) area with clear administrative boundary to which the scheme shall be applicable;

(ii) declaration of wild animals as vermin and reasons thereof;

(iii) date on which the scheme shall cease to operate; and

(iv) the recommendation of stakeholder and expert team consultation, carrying capacity studies and stakeholder surveys.

Administration of the Scheme.

5. The Scheme shall be administered by such authority, not lower in rank than the district Collector, as may be specified by the Central Government.

Person Affected by vermin wild animals to apply to the District Collector for compensation.

6. Every person affected by the vermin wild animals or crop raid shall apply to the District Collector or such other authority specified under section 5 for the payment of compensation in such form and manner as may be prescribed.

7. (1) The Central Government shall, by notification in the Official Gazette, constitute a Vermin Wild Animals and Crop Raid Compensation Fund to which the Central Government and State Governments concerned shall contribute every year in such ratio as may be prescribed.

Constitution of Vermin Wild Animals and Crop Raid Compensation Fund.

(2) The Fund shall be utilized for payment of compensation to the persons affected by crop raids or otherwise by vermin wild animals.

(3) The Fund shall also be credited from corporate social responsibility funds and wildlife protection activists, as donations.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds for carrying out the purposes of this Act.

Central Government to provide adequate funds.

9. The Central Government may issue directions to the concerned State Governments for carrying out the purposes of this Act.

Power to issue directions.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The population of wild life in the protected areas including National parks, wildlife sanctuaries and reserved forests is increasing beyond the carrying capacity of the protected areas due to strict implementation of laws, growing concern of the environment and wild life protection authorities. Due to the population beyond carrying capacity, the wild animals are forced to come out from their natural habitat and migrate to the human habitations including thickly populated areas. Due to these phenomena, the man-animal conflict is increasing day by day and in most of the cases, the human beings are at the receiving end. Due to animal attack and crop raids, residents are losing their life and property. In the event of loss of life or damage to the properties or agricultural crops, there is no provision giving the affected parties a statutory right to get their damages adequately compensated. There is no provision of law enabling the stakeholders to cull the wild animals so as to contain their population within the carrying capacity of their natural habitats such as the National Parks, the wild life sanctuaries, reserved forest and other protected areas. Therefore, it is highly required to have a legislation conferring rights on the citizens to get their damages due to attack by wild animal adequately compensated and also to cull the wild animals for the purpose of containing their population within the carrying capacity of their natural habitats.

The Bill seeks to achieve the above objectives.

NEW DELHI;
August 4, 2017.

JOICE GEORGE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of an Expert Team to notify wild animals as vermin. Clause 7 provides for the constitution of a Vermin Wild Animals and Crop Raid Compensation Fund. Clause 8 provides that the Central Government shall provide adequate funds for carrying out the purposes of the Act. The Bill, therefore, if enacted will involve expenditure from Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees two hundred and ten crore would involve from the Consolidated Fund of India. A non-recurring expenditure of about rupees fifteen lakhs is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

BILL NO. 194 OF 2017

A Bill further to amend the National Green Tribunal Act, 2010.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the National Green Tribunal (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 5.

2. In Section 5 of the National Green Tribunal Act, 2010, (hereinafter referred to as the principal Act),—

(a) in sub-section (1), for the words, " or has been, a Judge of the Supreme Court of India or Chief Justice of a High Court", the words "qualified to be appointed as a Judge of the Supreme Court or a High Court" shall be substituted; and

(b) in the proviso to sub-section (1), for the words " or has been a Judge of the High Court", the words " qualified to be appointed as a Judge of the High Court" shall be substituted.

3. In section 7 of the principal Act,—Amendment
to section 7.

(a) for the words "five years", the words "three years" shall be substituted;
and

(b) for the existing proviso, the following proviso shall be substituted, namely:—

"Provided that the Chairperson or, Judicial Member or Expert Member of the Tribunal shall not hold office after he has attained the age of sixty five years."

4. In section 10 of the principal Act,—Amendment
to section 10.

(a) in sub-section (2) for the words "Judge of the Supreme Court", the words "Committee consisting of a Judge of the Supreme Court, two independent Members nominated by the Central Government in consultation with the Chief Justice of India and the Leader of the Opposition or the leader of the largest opposition party in the House of the People, "shall be substituted; and

(b) in sub-section (3), for the words "Judge of the Supreme Court" occurring at both the places, the word "Committee" shall be substituted.

5. For section 22 of the principal Act, the following section shall be substituted, namely:—Substitution of
new section for
section 22.

"22. Any person aggrieved by any award, decision or order of the Tribunal, may, file an appeal to the High Court having local jurisdiction, within ninety days from the date of communication of the award, decision or order of Tribunal to him:

Appeal.

Provided that the High Court may entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal."

STATEMENT OF OBJECTS AND REASONS

The National Green Tribunal Act, 2010 has been enacted with the objectives of providing effective access to judicial and administrative proceedings including, redress and remedy, and to develop national laws regarding liability and compensation for the victims of pollution and other environmental damages. The Act has been brought on the basis of the recommendation of the Law Commission of India for the setting up of environmental courts having original and appeal jurisdiction relating to environmental law. But as per the provision of the Act, the post of Chairperson and Judicial Members are only reserved for the retired Judges of the Supreme Court and the Chief Justices of the High Courts. Now the National Green Tribunal (NGT) has become a rehabilitation centre for the retired Judges of the Supreme Court and High Courts which is affecting the efficacy of the NGT. Therefore, it is necessary to amend the law to bring persons having competency and impeccable integrity with sound knowledge in law as the Chairperson and Judicial Members of the NGT. Though the stated objective is to provide effective access to judicial remedies, by section 22 of the Act, the appeal remedy against the award, decision or order of the Tribunal is confined to the Supreme Court. It is well known that the Supreme Court is not accessible to the people at large especially the victims of environmental issues and the activities of certain groups having vested interests trying to implement environmental colonialism in our land to the disadvantage of the poor farmers, marginalized farm labours, tribals and other vulnerable group. Further the civil courts are barred from entertaining any appeal or application in respect of any matter, which the Tribunal is empowered to determine under its appeal jurisdiction and the Tribunal having jurisdiction to settle disputes or entertain any question relating to any claim for granting any relief or compensation, etc., respectively. Therefore, in effect the appeal remedy is almost denied to the affected parties against the order of NGT.

The Bill, therefore seeks to amend the National Green Tribunal Act, 2010 with a view to—

- (a) restrict the appointment of retired Judges of Supreme Court or the Chief Justice of a High Court as Chairperson and Judicial Member, respectively of the National Green Tribunal;
- (b) limit the age of retirement of Chairperson and other Judicial Member of the National Green Tribunal to sixty-five years; and
- (c) provide the right to appeal against the award, decision or order of the National Green Tribunal to the High Court having local Jurisdiction.

Hence this Bill.

NEW DELHI;
August 4, 2017.

JOICE GEORGE

BILL NO. 63 OF 2018

*A Bill to provide for conservation and elimination of pollution of rivers of the country
and for matters connected therewith*

BE it enacted by the Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the River (Conservation and Elimination of Pollution) Act, 2018. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "Committee" means the River Conservation Committee constituted under section 8;

(c) "industry" shall have the same meaning as assigned to it under clause (j) of section 2 of the Industrial Disputes Act, 1947;

14 of 1947.

(d) "prescribed" means prescribed by rules made under this Act;

(e) "river" means an inter-State river or river valley; and

(f) "school" means any Government school or a Government aided school or a private school which imparts education from primary to senior secondary level.

Formulation of a policy for mandatory cleaning of rivers.

3. The Central Government shall, by notification in the Official Gazette, formulate a policy for mandatory cleaning of all the rivers of the country.

Inclusion of ill-effects of water pollution in school.

4. The appropriate Government shall include the ill-effects of water pollution as a subject in the curriculum of study in school education under their jurisdiction.

Appropriate Government to launch awareness campaign.

5. The appropriate Government shall, prior to organizing any religious festival on the banks of a river, launch awareness campaigns on ill-effects of water pollution and its impact on human health.

Appropriate Government to the industries causing river pollution.

6. The appropriate Government shall, after detailed study, systematically shut down industries that cause or are likely to cause river pollution.

Vocational training.

7. The appropriate Government shall put in place vocational training for the persons rendered jobless due to closure of industries causing pollution.

Constitution of River Conservation Committee.

8. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be constituted, for the purposes of this Act, a Committee to be known as the River Conservation Committee.

(2) The Committee shall consist of:—

(a) Union Minister of Environment, Forest and Climate Change;

(b) Union Minister of Water Resources, River Development and Ganga Rejuvenation;

(c) an environment scientist in the field of water pollution, as member;

(d) a person having experience in the field of river conservation, as member;

(e) Chief Ministers of all States as members; and

(f) an officer of Indian Administrative Service as member—Secretary,

to be appointed by the Central Government in such manner as may be prescribed.

(3) The Union Minister, whosoever is senior, shall act as an *ex-officio* Chairperson of the Committee;

(4) The Committee shall meet at least twice in a month.

(5) The Salary and allowances payable to and other terms and conditions of service of members of the Committee other than the ex-officio members, shall be such as may be prescribed.

9. The Union Ministry of Environment, Forest and Climate Change shall provide secretarial and financial assistance to the Committee.

Central Government to provide secretarial assistance.

10. The Committee shall,—

Functions of the Committee.

- (a) ensure complete ban on pollution of river;
- (b) ensure the availability of clean and potable water;
- (c) ensure pollution free zones within two kilometer area on both sides of the rivers;
- (d) ensure that celebration of religious festivals does not cause river pollution;
- (e) organize mass campaign in order to cause awareness about the ill effects of river pollution;
- (f) ensure inclusion of ill-effect of river pollution in school curriculum;
- (g) impose ban upon releasing or dumping of waste in to the rivers by factories;
- (h) impose penalty on any industry causing river pollution;
- (i) draw public attention towards the fatal effects of river pollution upon human health; and
- (j) ensure total ban on releasing of effluents of drains into river.

11. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act from time to time.

Central Government to provide funds.

12. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government, in consultation with the State Governments, may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of any difficulty:

Power to remove difficulty.

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before both the Houses of Parliament.

13. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Rivers are known as the lifelines of a country and act as a mirror of its culture and civilization. In the Indian culture, society, rulers and saints have given the title of mother to these life giving rivers and has also treated them with respect befitting a mother. During the past few years, due to ever increasing industrialisation and urbanisation, the level of pollution has increased massively in major rivers. Due to indiscriminate use of river water for irrigation, drinking, power generation and for other purposes, challenges have increased manifold. The Indian rivers are in extremely bad condition. The Welfare of human race lies with the cleaning of rivers. Only through mutual cooperation, we can think of clean rivers. There were times, when in India, trade was used to be carried through water ways, but today it has become a dream. Improving present conditions is necessary for a bright future. Today many rivers of India are biologically dead. Along with environment it is affecting the lives of the people also. According to a World Resources Report, seventy *per cent.* of Indians drink polluted water. Many diseases i.e. cholera, jaundice, typhoid, etc. are caused due to consumption of polluted water. River water is also polluted by chemical fertilizers. The quality of river water has further deteriorated due to industries.

Nearly more than one hundred and fifty rivers of India are polluted. Today rivers are used as dumping place and carriers of waste and chemical substances thrown out of the factories. May industrial units are located along the banks of the Ganga, the Yamuna and the Brahmaputra rivers. Number of factories in such cities are on rise and the only option is to discharge their chemical effluents into the rivers. Due to legislation during the 1980-90 decade, every day millions of gallons of polluted water from factories were discharging into the rivers. By immersing puja and *havan* related items into holy rivers, people wish to gain spiritual wealth. On all positive occasions, we used to immerse idols of gods or goddesses into the rivers and dead bodies and remains are also dumped into the rivers.

Moreover, there are many rivers in Himalayan region that are getting polluted due to heavy influx of tourists.

In order to make the Ganga a clean, pollution free river, the National Green Tribunal headed by Justice Surat Kumar on 13 July, 2017 declared an area of several metres on both sides of the Ganga river between Haridwar and Unnav as non-construction zone and prohibited dumping within an area of five hundred metres of river bank and also directed to impose a penalty of rupees fifty thousand on any person who pollutes the river.

The Ganga is one of the most polluted rivers in the world in which tonnes of sewage and industrial waste is being dumped on a daily basis. Originating as a crystal clear stream from the snow capped Himalayan mountains, the Ganga gets converted into toxic sludge after flowing through different industrial and non-industrial cities and due to indiscriminate use by the devotees.

In the 1570 mile (approx 2527 km.) stretch of Ganga river from the Himalayas to the Bay of Bengal, out of 480 crore litre sewage being daily discharged only one-fourth of it is being treated. The colour of Ganga river flowing below the bridges of industrial city like Kanpur has turned dark grey, where industrial waste and sewage flowing in the drains gets discharged into the river and form continuous foams over surface of water. The need is to put a check on the rapid pollution of such rivers in the country.

The Bill, therefore, seeks to constitute a River Conservation Committee for conservation and elimination of the pollution of rivers in the country.

Hence this Bill.

NEW DELHI;
January 22, 2018.

SHRIRANG APPA BARNE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for formulation of a policy for mandatory cleaning for all rivers of the country. Clause 5 provides for launching of awareness campaigns on ill-effects of water pollution. Clause 7 provides for vocational training for persons rendered jobless due to closure of pollution causing industries. Clause 8 provides that the Central Government shall constitute the River Conservation Committee. Clause 9 provides for secretarial and financial assistance to the River Conservation Committee. Clause 11 provides that the Central Government shall provide funds for carrying out the purposes of the Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two thousand crore would involve as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of rupees five hundred crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 55 OF 2018

A Bill further to amend the Medical Termination of Pregnancy Act, 1971.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Medical Termination of Pregnancy (Amendment) Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 3.

2. In section 3 of the Medical Termination of Pregnancy Act, 1971 (hereinafter referred to as the principal Act), in sub-section (2), in clause (b), for the words "twenty weeks", the words "twenty-four weeks and in case of rape survivor", anytime during the pregnancy but before twenty-seven weeks" shall be substituted. 34 of 1971.

Substitution of
new section for
section 4.

3. For section 4 of the principal Act the following section shall be substituted, namely:—

“4. No termination of pregnancy shall be made in accordance with this Act at any place other than a hospital or medical college established or maintained by the Government of India.”.

4. After section 4, of the principal Act the following section shall be inserted, namely:—

Central
Supervisory
Board.

"4A. (1) There shall be established a Board to be known as Central Supervisory Board which shall consist of such number of eminent medical Geneticists, Gynaecologists and Obstetricians, Paediatricians, Social Scientists and Representatives of Women Welfare Organization as may be prescribed to discharge functions assigned under this Act.

(2) The Chairperson of the Board shall be appointed from amongst the members of the Board;

(3) The terms and conditions of appointment of the Chairperson and members of the Board shall be such as may be prescribed."

5. In section 5 of the principal Act, in-section (1), the following provisos shall be inserted, namely:—

Amendment
of section 5.

"Provided that if in the majority opinion of the Central Supervisory Board, continuance of pregnancy may involve a substantial risk in case the child is born with following abnormalities:—

(a) chromosomal abnormalities;

(b) genetic metabolic diseases;

(c) haemoglobinopathies;

(d) sex-linked genetic diseases;

(e) congenital abnormalities; or

(f) another abnormalities or diseases as may be specified by the Central Supervisory Board,

the pregnancy, irrespective of the length of pregnancy, shall be terminated in accordance with the provisions of section 4:

Provided further that if the pregnant woman irrespective of her age is a rape survivor, the pregnancy be terminated within twenty-seven weeks of such pregnancy in accordance with the provisions of section 4."

STATEMENT OF OBJECTS AND REASONS

The Medical Termination of Pregnancy Act was enacted in 1971. Since its enactment, there have been spectacular socio-economic changes in the society. The lifestyle of the people has also changed considerably. Besides, technology in medical science has improved very much and there have been new techniques, which can detect foetal abnormalities in the advanced stage of pregnancy also. These techniques were not known or available when the Act was enacted in 1971.

In our country abortion is legal only up to twenty weeks of pregnancy under specific conditions and situations, broadly defined as the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury of physical or mental health, or there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.

Sometimes, it may happen that a defective child in the womb may cause substantial physical damage to the mother and it may result in death of the child or the mother. Therefore, it would be better if the abnormalities are detected and aborted in time with the latest technology.

Recently, the Supreme Court permitted a rape survivor to terminate her pregnancy at twenty-four weeks, which is beyond the permissible twenty weeks limit prescribed under the Medical Termination of Pregnancy Act, 1971. Their grounds were that continuing the pregnancy could greatly endanger her physical and mental health. In this instance, the Supreme Court directed the members of the appointed Medical Board to examine the petitioner and the viability of the pregnancy. The Board found that the foetus had multiple congenital anomalies and the severity of these anomalies posed a grave risk to the physical and mental health of the petitioner. Therefore, the Medical Board recommended that the petitioner be allowed not to continue the pregnancy. Based on these recommendations, the Supreme Court granted the petitioner permission to terminate her pregnancy.

This is not the first time that the Supreme Court has permitted a woman to abort a foetus older than twenty weeks. In 2015, the apex Court overturned a decision by the Gujarat High Court in a similar case. The Gujarat High Court had denied permission to a fourteen year-old rape survivor to abort her twenty-five week old foetus. Interestingly, while delivering its verdict, the High Court acknowledged the adverse physical, emotional and psychological implications of the decision on the petitioner's life, but ultimately chose to subscribe to the law. The girl then approached the Supreme Court, which recommended that a medical panel examine the girl and decide whether the termination of pregnancy was in her best interests; if the panel was in favour of the abortion, then the girl could go ahead with the termination.

There is a provision in the parent Act for termination of pregnancy if it is found that the continuance of the pregnancy would involve a substantial risk to the life of the women and the termination can be made at any time even in the advance stage, that is length of the pregnancy would not be a deciding factor. But, there is no provision for termination of pregnancy if the child to be born with abnormalities like genetics, severe heart diseases and likewise. Therefore, it is proposed that a suitable amendment to the parent Act be made so that pregnancy can be terminated even in the advanced stage if continuance of pregnancy involves a substantial risk of the child being born with certain specified abnormalities. However, it is also necessary to ensure that the termination of pregnancy is conducted under the supervision of a Medical Board and that too in a designated place. Moreover, it is also required to ensure that if the pregnant woman is a rape survivor, the pregnancy be terminated without the supervision of any Medical Board but in a designated place within twenty-seven weeks of such pregnancy.

The Bill seeks to achieve the above objective.

NEW DELHI;
January 22, 2018.

SHRIRANG APPA BARNE

BILL NO. 47 OF 2018

A Bill to provide for the promotion of solar energy by establishing an Authority to protect the environment and control the global warming being caused due to burning of fossil fuels for energy production resulting in noxious emissions therefrom and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Solar Energy Promotion Act, 2018.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government.

(b) "Authority" means the National Solar Energy Authority of India established under section 3;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "Solar energy" means the energy obtained from natural sources of sunlight.

Establishment
of National
Solar Energy
Authority.

3. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish an Authority to be known as the National Solar Energy Authority of India for carrying out the purposes of this Act.

(2) The headquarters of the Authority shall be at New Delhi and it shall have offices at such other places in the country as it may deem necessary for carrying out the purposes of this Act.

(3) The Authority shall consist of:—

Composition
of the
Authority.

(a) a Chairperson, who shall be an expert scientist having adequate knowledge and professional experience in the field of solar energy, to be appointed by the Central Government;

(b) one Deputy Chairperson with such qualifications as may be prescribed, to be appointed by the Central Government;

(c) five members of Parliament of whom three shall be from Lok Sabha and two from Rajya Sabha to be nominated by the respective Presiding Officers of the House concerned;

(d) five members to represent the Union Ministries of Environment and Forests, Science and Technology, New and Renewable Energy, Planning and Finance, to be nominated by the Central Government;

(e) four members to represent the non-Governmental Organisations working for the protection of environment and promotion of solar energy in the country, to be nominated by the Central Government in such manner as may be prescribed; and

(f) four members to be nominated by the Governments of the States to be rotated amongst the States in alphabetical order.

(4) The Authority shall be a body corporate by the name aforesaid having perpetual succession and common seal with power to acquire, hold and dispose of property both movable and immovable and to contract and shall by the said name sue and be sued.

(5) The term of office of the Chairperson, Deputy Chairperson and members of the Authority and the procedure to be followed in the discharge of the functions of the Authority shall be such, as may be prescribed.

(6) The salary and allowances payable to, and other terms and conditions of the service of members other than ex-officio members of the Authority shall be such as may be prescribed.

(7) The Central Government shall provide such number of officers and staff to the Authority as is required for its efficient functioning.

(8) The salary and allowances payable to, and other terms and conditions of the officers and staff of the Authority shall be such as may be prescribed.

(9) The Authority shall meet at least two times in a year.

Functions of
the Authority.

4. (1) Subject to any guidelines issued by the Central Government under the provisions of this Act, the Authority shall perform and undertake such special steps in close co-ordination with concerned Ministries, Departments and Public Sector Enterprise of the Central and State Governments for the rapid and accelerated promotion and development of solar energy throughout the country as it may deem necessary and expedient to do so for the promotion of solar energy.

(2) Without prejudice to the generality of the foregoing provisions, the Authority shall,

(a) formulate solar energy policy, its goals and execution plan;

(b) develop indicative standards of solar energy;

(c) support and encourage research and development through Government and private sector participation involving all major Research Laboratories;

(d) work for greening of industry and create public awareness of climate change and other environmental issues;

(e) facilitate infrastructure development of solar energy in rural areas;

(f) suggest ways for conversion of fossil fuel based on industrial heating to solar thermal heating through new solar concentrator technology or its hybrids;

(g) suggest educational and other policy initiatives for solar energy;

(h) create interactive web based resource maps of different solar technologies to facilitate speedy project development and market expansion;

(i) facilitate quick technology transfer and adoption of solar energy; and

(j) such other activities as may be assigned from time to time.

5. (1) Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall in consultation with the Authority make it compulsory for every establishment including Government establishments to,—

Government and commercial establishments to use solar energy.

(a) use the photovoltaic energy in all public buildings;

(b) ensure every company, firm in any business having open area of more than 200 square yards on ground or roof install photovoltaic or solar cells to fulfil its fifty per cent of electricity and fuel demand shall impose heavy fine of rupees one lakh per month;

(c) make provision for time-bound solar water heating in all buildings with defined floor area;

(d) make it mandatory for electricity utilities for compulsory purchase of electricity from solar energy sources;

(e) reserve adequate land for setting up of solar energy projects;

(f) encourage monetarily by providing loan at one per cent interest for purchase, installation and use of solar cells; and

(g) take such other steps as the appropriate Government may deem necessary.

(2) The appropriate Government shall, as soon as may be, identify the exploitable sources of solar energy in their respective territorial jurisdictions and send project reports thereon to the Authority which shall depute a team of experts to verify and assess the possibility of exploiting solar energy sources.

(3) The Authority shall on the basis of the report submitted by the team of experts work out the estimated expenditure on the projects submitted to it under sub-section (2) and recommend the Central Government to implement the projects in a time-bound manner.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide to the Authority in each financial year such sums as may be considered necessary and adequate for the performance of the functions of the Authority under this Act.

Central Government to provide funds.

7. The Authority shall prepare once in every calendar year in such form and at such time as may be prescribed an Annual Report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the President of India who shall cause the same to be laid before both the Houses of Parliament.

Authority to prepare Annual Reports.

8. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of the period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall as soon as may be after it is made, be laid before both the Houses of Parliament.

Power to
make rules.

9. (1) The Central Government may, by notification in the Official Gazette, make rules for carry out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The world Meteorological Organisation has reported that a series of record breaking weather events have caused havoc in the world during the year 2007. Temperature records were broken in western and central Russia in May and in South Eastern Europe in June and July. In many European countries' April was the warmest ever recorded month. China and some parts of India were hit by the worst snowfall followed by avalanches. According to research, even though temperatures are showing precarious rise, global warming is forecast to set in with a vengeance only after 2009 with at least half of the five following years expected to be hotter than 1998, the warmest year on record. The global warming is being caused by human activities such as the burning of fossil fuels which release greenhouse gases. The accelerating rate of carbon dioxide emissions is largely due to rising energy consumption, notably coal and petroleum products resulting from an increasing population and higher per capita GDP. The mitigation of global warming is possible only through a transition to a low carbon economy, which means large-scale development of solar energy is the biggest imperative of our times for environmental protection.

Our country has vast potential of solar energy. According to conservative estimate, Mega Watt wind power potential is 4500 Mega Watt and with the growth in unit size of turbines, greater land availability and expanded wind resource exploration, this potential should go up significantly up to one lakh Mega Watt. At the same time an urgent assessment of the potential of power generation from solar energy in our country is essential. This is more so because of the recent growth of Concentrating Solar Power (CSP). The desert area of our country have the solar radiation required for CSP production. A 60 KM X 60 kilometer area can produce one lakh Mega Watt of power. We have a desert area of 208110 square kilometer in Rajasthan and Gujarat. Even if we use only 15000 square kilometer of desert we can produce three lakh Mega Watt of power. The solar energy power production potential in our country can easily be scaled up to six lakh Mega Watt in the future through multifarious sources and new energy technologies. We are also capable of producing bio-fuels. It is felt that an authority to tap these potentials should be established at the national level.

Hence this Bill.

NEW DELHI;
January 22, 2018.

SHRIRANG APPA BARNE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of National Solar Energy Authority. It also provides for the composition of the Authority and the salary and allowances for its Chairperson, Deputy Chairperson, members, officers and staff. Clause 4 provides for infrastructure development of solar energy in rural areas. Clause 6 provides that the Central Government shall provide adequate funds to the Authority. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of rupees five hundred crore will be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is, therefore, of a normal character.

BILL NO. 70 OF 2018

A Bill to provide for the welfare measures to be undertaken by the State for the rural labour employed in the agriculture sector and allied activities thereto and other rural occupations by establishing a Welfare Fund for such labour and for taking other measures to improve their living and working conditions and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Rural Labour (Welfare) Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

Short title,
extent and
commencement.

Definitions.

(b) "Committee" means the National Rural Labour Welfare Committee established under section 3;

(c) "employer" includes cultivator, orchard owner, poultry farm owner, livestock rearer, agency society, food processing unit, crusher, oil or pulses mill or any such establishment located in any rural area which employs rural based labour;

(d) "Fund" means the Rural Labour Welfare Fund established under section 5;

(e) "prescribed" means prescribed by rules made under this Act; and

(f) "rural labour" means any person residing in a village and engaged in any rural vocation such as agriculture, horticulture, sericulture, poultry, rearing of livestock including piggery, food processing, handicrafts, weaving or any such other occupation as a wage earner whether in cash or kind, for his livelihood and includes any person engaged through a contractor or engaged as a self employed person.

Establishment
of the National
Rural Labour
Welfare
Committee.

3. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish a Committee to be known as the National Rural Labour Welfare Committee for carrying out the purposes of this Act.

(2) The headquarter of the Committee shall be at New Delhi and the Committee may establish offices at such other places in the country as it may deem necessary for carrying out the purposes of this Act.

(3) The Committee shall consist of—

(a) a Union Minister to be appointed by the Central Government in such manner as may be prescribed, Chairperson *ex-officio*;

(b) five Members of Parliament of whom three shall be from the House of the People and two from the Council of States to be appointed by the presiding officers of the Houses concerned, members, *ex-officio*;

(c) six representatives from the Union Ministry of Labour, Planning and Finance to be appointed by the Central Government in such manner as may be prescribed, members; and

(d) seven members to be nominated by the Governments of the States to be rotated amongst the States in alphabetical order.

(4) The term of the office of Chairperson, members of the Committee and the procedure to be followed in the discharge of its functions shall be such as may be prescribed.

Formulation
of a national
policy for the
welfare of rural
labour.

4. (1) The Committee shall, as soon as may be, formulate a national policy for the betterment and welfare of the rural labour.

(2) The national policy so formulated under sub-section (1) shall be uniformly implemented throughout the country and the policy may incorporate provisions for uninterrupted work round the year, minimum remunerative wages, healthcare including maternity facilities, old age pension, compensation in case of accident and such other facilities as may be deemed necessary.

Establishment
of Rural
Labour Welfare
Fund.

5. (1) The Central Government shall, with effect from such date as may be specified by notification in the Official Gazette in this behalf, establish for the purposes of this Act, a Fund to be called the Rural Labour Welfare Fund which shall be administered by the Central Government in such manner as may be prescribed.

(2) The Central Government shall after due appropriation made by Parliament by law in this behalf, credit to the Fund in each financial year such sums of money as it considers necessary for carrying out the purposes of this Act.

(3) The Fund shall also consist of the moneys received from—

(a) the Government of the States as contributions, towards the fund;

(b) the body corporates as donations;

(c) financial institutions and other institutions, domestic and foreign ones as assistance; and

(d) donations from the employers and general public and bodies.

(4) The Fund shall be utilized to promote the welfare measures for the rural labour which are necessary or expedient to do and in particular to defray the costs towards,—

(i) improving educational facilities for the children of rural based labour;

(ii) improving water supply for drinking and other purposes;

(iii) improving the standard of living and nutrition for families of rural based labour;

(iv) amelioration of social condition of rural based labour;

(v) providing housing and recreational facilities;

(vi) providing medical facilities to the rural based labour and their families;

(vii) providing financial assistance in case of infirmity or disability due to accident etc.;

(viii) old age pension to the rural based labour; and

(ix) providing and improving the welfare measures included in the national policy and such other welfare measures as may be prescribed.

6. The Central Government may require a State Government or Union Territory Administration or a local authority or any employer to furnish for the purposes of this Act, such information in such form and within such period as may be prescribed.

State Government, etc. to furnish the requisite information.

7. Notwithstanding anything contained in any other law for the time being in force, it shall be the duty of the appropriate Government to ensure availability of work round the year to the rural labour through the employers or in such manner as that Government may deem expedient or necessary.

Appropriate Government to ensure availability of work round the year to the rural labour.

8. The Central Government shall, after the inputs provided by the Governments of the States and Union Territory Administrations, submit an annual report, in such form and in such manner, as may be prescribed, of the administration of the Fund and other welfare activities carried out under this Act, to the President of India who shall cause the report to be laid before both the Houses of Parliament along with action taken thereon as soon as it is received.

Annual Report.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Act to supplement other laws.

10. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

It is rightly said that India lives in villages because nearly eighty *per cent.* of its population lives in the villages and mostly depends on agriculture and agro based occupations. There are farms, orchards, poultry farms, livestock rearing farms where rural based labour are employed. They work as weavers, small scale entrepreneurs, handicraft artisans, potters, cobblers, blacksmiths, etc. There are millions of such agricultural, home based and other workers who are unorganized and remain exploited and poor throughout their lives and live in distress from generations together. Their wages and income are meagre and they do not get employment round the year. As a result, they are poverty stricken and remain neglected even by the State. None of the welfare laws like the Minimum Wages Act, 1948, the Maternity Benefit Act, 1961, the Payment of Gratuity Act, 1972 and the Workmen Compensation Act, 1923 applies in case of unorganised rural labour. During old, the rural labourers were not provided employment and therefore lacks money for food, medicines and clothes. The rural labourers do not have round the year employment and in case of agricultural sector, they get employment which is dependent on monsoon.

In a welfare State, like ours, it is the duty of the State to introduce welfare measures for the have-nots like the rural based labour who remain unorganized and exploited. Hence, it is necessary to formulate a national welfare policy for the rural based labour and constitute a Welfare Fund for them to ameliorate their living conditions. In pursuance of the said Policy, the Central and State Governments will implement the welfare measures contained in that policy and defray the costs to the Welfare Fund.

Hence this Bill.

NEW DELHI;
February 12, 2018.

SHRIRANG APPA BARNE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a National Rural Labour Welfare Committee. Clause 4 provides for formulation of a national policy for the betterment and welfare of the rural labour. Clause 5 provides for the establishment of Rural Labour Welfare Fund for which the Central Government shall provide funds in each financial year. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five thousand crore may involve as recurring expenditure per annum.

A non-recurring expenditure to the tune of rupees one thousand crore may also involve from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of normal character.

BILL NO. 89 OF 2017

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called Constitution (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of a
new article
21B.

2. After article 21A of the Constitution, the following article shall be inserted, namely:—

Right to
affordable
medical care,
etc.

"21B. The State shall provide affordable medical care, health insurance and healthcare facilities to every citizen in such manner as the State may, by law, determine."

STATEMENT OF OBJECTS AND REASONS

According to World Health Organization, "Health is a state of complete physical, mental and social wellbeing and not merely the absence of disease". In recent years, this statement has been amplified to include the ability to lead a 'socially and economically productive life'. Right to health is not included as a fundamental right in the Indian Constitution. The Constitution makers imposed this duty on State to ensure social and economic justice. Part IV of the Constitution, the Directive Principles of State Policy directs the State to take measures to improve the condition of healthcare of the citizen. The Supreme Court, in *Paschim Banga Khet Mazdoor Samity & Ors. vs. State of West Bengal & others*, while widening the scope of article 21 and stressing the Government's responsibility to provide medical aid to every person in the country, held that in a welfare State, the primary duty of the Government is to secure the welfare of the people.

Providing adequate medical facilities for the people is an obligation undertaken by the Government in a welfare State. The Government discharges this obligation by providing medical care to the persons seeking to avail of those facilities. In light of the increased debate on expanding infrastructure in the healthcare sector and improved health indicators such as maternal mortality rate and infant mortality rate, the concept of Right to Affordable Healthcare assumes immense importance.

The Bill, therefore, seeks to amend the Constitution with a view to make 'right to affordable medical care, health insurance and healthcare facilities' as a Fundamental Right of every citizen of the country.

Hence this Bill.

NEW DELHI;
March 10, 2017

SUSHIL KUMAR SINGH

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to provide for incorporation of 'right to affordable medical care, health insurance and healthcare facilities' as a Fundamental Right of every citizen of the country. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees five hundred crore will be involved per annum.

No non-recurring expenditure is likely to be involved.

BILL NO. 82 OF 2017

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Sixty-eighth year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2017. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2 of 1974.

2. In section 451 of the Code of Criminal Procedure, 1973,—

(i) for the words "the Court may", the words "the Court shall, within sixty days from the date such property is produced before it," shall be substituted; and

(ii) after the words "disposed of", the words "in such manner, as may be prescribed by notification by the Central Government in consultation with the State Governments" shall be inserted.

Amendment
of section
451.

STATEMENT OF OBJECTS AND REASONS

Criminal litigation in India is a long drawn out process. Under the relevant criminal laws, any property related to the trial has to be confiscated or be kept in the custody of the police station for being recorded as evidence. Though the Code of Criminal Procedure, 1973 provides for disposal of property pending trial, the absence of any time limit to adjudicate the disposal of property often leads to destruction of the said property as it is confiscated for a long time. The non-disposal of property such as vehicles, cement packets, foodgrains and other items leads to their decay and, subsequently, they become obsolete and non-usable. It is, therefore, recommended that a time-bound disposal of application for disposal of property which has been confiscated during the pendency of trial is essential. Such a time-bound decision will ensure that the property is not wasted and it doesn't become a burden for the police or the Court to continuously monitor the upkeep of such property. The State Government is also required to prescribe the rules and procedure for dealing with such property and ensuring that existing registration of movable property such as car is cancelled and the products are freshly auctioned in order to avoid any further hardship to the buyer or acquirer of the property.

Hence this Bill.

NEW DELHI;
March 11, 2017.

SUSHIL KUMAR SINGH

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill empowers the State Government to make rules for disposal of property subject to speedy and natural decay within sixty days of producing of such property before any criminal Court. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 217 OF 2017

A Bill to provide for effective regulation of the level of fluoride in groundwater and identification of the risk areas of fluoride contamination, formulation of a national policy for mitigating and preventing fluoride contamination in food and drinking water in the country for the overall welfare, care and protection of the citizens and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Fluoride Contamination (Prevention) Act, 2017.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "fluoride" means a compound containing fluorine and another element or radical which is a natural mineral found throughout the earth's crust and widely distributed in nature;

(b) "Authority" means the National Fluoride Contamination Prevention Authority established under section 4;

(c) "groundwater" means naturally occurring water found below the surface in the saturated zone which can be extracted by digging wells and bores; and

(d) "prescribed" means prescribed by rules made under this Act.

3. Notwithstanding anything contained in any other law for the time being in force, the Central Government shall as soon as may be after the commencement of the Act and in consultation with the Government of the States, formulate a national policy for mitigating and preventing fluoride contamination in food and groundwater in the country for the overall welfare, care and protection of the citizens.

National policy for prevention of fluoride contamination.

4. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish an Authority to be called the National Fluoride Contamination Prevention Authority for the purposes of this Act.

Establishment of National Fluoride Contamination Prevention Authority.

(2) The head office of the Authority shall be at New Delhi and the Authority may establish offices at other places in the States and Union territories as it may deem necessary for carrying out the purposes of this Act.

(3) The Authority shall consist of the following members—

(a) a Chairperson, who shall be an expert scientist having adequate knowledge and professional experience in the prevention of fluoride pollution, to be appointed by the Central Government;

(b) one Deputy Chairperson with such qualifications as may be prescribed, to be appointed by the Central Government;

(c) five members of Parliament of whom three shall be from Lok Sabha and two from Rajya Sabha, to be nominated by the respective Presiding Officers of the two Houses;

(d) five members, one each to represent the Union ministries of Drinking Water and Sanitation, Environment, Forest and Climate Change, Health and Family Welfare, Agriculture and Farmers Welfare and Panchayati Raj, respectively, to be appointed by the Central Government;

(e) four members to represent the non-Governmental Organisations working for prevention of fluoride pollution in food and ground water, to be appointed by the Central Government; and

(f) four members to be nominated by the Governments of the States to be rotated amongst the States in alphabetical order.

(4) The Authority shall be a body corporate by the name aforesaid having perpetual succession and common seal with power to acquire, hold and dispose of property both movable and immovable and to contract and shall by the said name sue and be sued.

(5) The Salary and allowances payable to Chairperson, Deputy Chairperson and Members, terms of office of the Chairperson, Deputy Chairperson and members of the Authority and the procedure to be followed in the discharge of the functions of the Authority shall be such, as may be prescribed.

(6) The Authority shall have a secretariat with such number of officers and staff as may be prescribed.

(7) The salary and allowances payable to, and other terms and conditions of the officers and staff of the authority shall be such, as may be prescribed.

Functions of
the Authority.

5. (1) Subject to any guidelines issued by the Central Government under the provisions of this Act, the Authority shall perform and undertake such special steps in close coordination with concerned Ministries and Departments of the Central and the State Governments to eliminate fluoride contamination and to afford the fluoride free drinking water and food to everyone throughout the country as it may deem necessary and expedient under this Act.

(2) Without prejudice to the generality of the foregoing provisions, the Authority shall—

(a) conduct survey at risk areas to determine the location, scale and causes of fluoride contamination;

(b) conduct survey of irrigation wells to assess the risk of overuse and exploitation of ground water on agriculture and human health;

(c) develop awareness at all levels of society about the potential danger of fluoride in food and water;

(d) assess the availability of low fluoride water resources for human consumption;

(e) help farmers to adapt by maximizing rain fed production where alternative water source for irrigation are insufficient;

(f) prioritise water supply and treatment intervention in worst affected areas;

(g) establish local and affordable capability to test water supplies where fluoride surveys have been completed;

(h) coordinate and monitor time bound fluoride mitigation plants to eliminate fluoride exposure;

(i) identify alternative soft water sources and assess their sustainability;

(j) assess the effect of contaminated water to fluoride exposure specially on human health;

(k) assess the likely impact of climate change on the increased demand for and reduced availability of groundwater;

(l) assess the health effects of excessive exposure to fluoride and provide preventive medical assistance; and

(m) such other activities as may be assigned from time to time.

Central
Government to
provide funds.

6. The Central Government shall after due appropriation, made by Parliament by law in this behalf, pay to the authority in each financial year such sums as may be considered necessary and adequate for the performance of the functions of the Authority under this Act.

Annual report.

7. The Authority shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving summary of its activities during the previous year and submit it to the Central Government, which shall cause the same to be laid before both the Houses of Parliament.

Power to
remove
difficulties.

8. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before both the Houses of Parliament.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the subject matter of this Act.

Act to
supplement
other laws.

10. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to
make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions, aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Fluorosis, a public health problem is caused by excess intake of fluoride through drinking water, food products and industrial pollutants over a long period. High concentrations of fluoride in groundwater are common in some of the semi-arid areas of Rajasthan, southern Punjab, Gujarat, Karnataka, Tamil Nadu, Madhya Pradesh and southern Haryana. Several areas of Telangana and Andhra Pradesh have high concentrations of fluoride in ground water (exceeding 5 mg/l). There are a number of cases of dental and skeletal fluorosis in these areas. In several parts of the country, fluoride concentrations of groundwater are more than the permissible level of 1.5mg/l in 11309 rural habitations in 230 districts of 20 States with an affected population of about 1.12 crore.

The Nalgonda fluorosis problem in the State of Telangana is a stigma that has stuck for generations, severely disabling skeletal fluorosis affects lakhs of people in just one district of the country. As per official estimates, there are 6.5 lakh fluorosis affected patients, out of which there are around 75,000 severely skeletal fluorosis affected people. The extreme water stress and water scarcity situation in this region has resulted into around 5.5 lakh deep borewells in just one single district. The fluoride problem has just increased over the past 80 years, after it first got reported in the 1937.

The United Nations General Assembly's Human Right to Water and Sanitation resolution 64/292 passed in 28 July 2010 recognised the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights. According to the Constitution of India, every citizen has a Right to clean water under the ambit of article 21 pertaining to Right to Life.

Therefore, given the magnitude of the problem there is a need to provide safe drinking water to cover all water quality affected habitations with piped water supply schemes and an effective law to regulate the level of fluoride in groundwater and identification of risk areas for mitigating and preventing fluoride in food and groundwater.

Hence this Bill.

NEW DELHI;
November 27, 2017.

CH. MALLA REDDY

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of Nation Fluoride Contamination Prevention Authority. Clause 6 makes it obligatory on the Central Government to provide necessary funds for the purposes of the Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees twenty five thousand crore will be involved as recurring expenditure per annum.

Non-recurring expenditure to the tune of rupees six thousand crore will also be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 106 OF 2017

A Bill to provide for protection to and welfare measures for the bamboo, cane, screw pine and mat weavers and workers and their family members and for matters connected therewith.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Bamboo, Cane, Screw pine and Mat Weavers and Workers (Welfare) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "Authority" means the National Bamboo, Cane, Screw pine, Mat Weavers and Workers Welfare Authority established under section 3;

(c) "Fund" means the National Bamboo, Cane, Screw pine, Mat Weavers and Workers Welfare Fund constituted under section 5;

(d) "bamboo, cane, screw pine and mat weaver" means a person engaged in the planting, nursing, cutting, transporting, storing, processing, weaving, value adding, distributing, exhibiting or selling bamboo, cane, screw pine and mat;

(e) "prescribed" means prescribed by rules made under this Act; and

(f) "worker" means a bamboo, cane, screw pine or mat weaver engaged in the production of bamboo, cane, screw pine or mat and who earns wages on daily, weekly, monthly or any other basis.

3. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish an Authority to be known as the National Bamboo, Cane, Screw Pine, Mat Weavers and Workers Welfare Authority for carrying out the purposes of this Act.

Establishment
of National
Bamboo, Cane,
Screw Pine and
Mat Weavers
and Workers
Welfare
Authority.

(2) The Authority shall consist of—

(a) a Chairperson having adequate knowledge and professional experience in bamboo, cane, screw pine and mat weaving sector;

(b) a Deputy Chairperson with such qualification, as may be prescribed;

(c) three members to represent bamboo, cane, screw pine and mat weaving sector cooperatives and State Government undertakings;

(d) three members to represent bamboo, cane, screw pine and mat weaving sector and worker of the registered trade unions;

(e) four members to represent the Union Ministries of Finance, Planning, Labour and Employment and Textiles,

to be appointed by the Central Government in such manner, as may be prescribed;

(f) four members to be nominated by the State Governments on rotation basis in alphabetical order; and

(g) five members of Parliament, of whom three shall be from the House of the People and two shall be from Council of States, to be nominated by the Presiding Officers of the respective Houses.

(3) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(4) The salary and allowances payable to and other terms and conditions of service of the Chairperson, Deputy Chairperson and members of the Authority and the procedure to be followed in the discharge of the functions of the Authority shall be such as may be prescribed.

(5) The Headquarter of the Authority shall be at New Delhi.

(6) The Authority shall establish its zonal offices in the States of Kerala, Assam, Jammu and Kashmir, Madhya Pradesh and Maharashtra.

(7) The Authority may establish its offices at such other places, as it may deem necessary, for carrying out the purposes of this Act.

(8) The Authority shall have a secretariat with such Officers and staff having such terms and conditions of services as may be prescribed.

Functions of
the Authority.

4. (1) The Authority shall, in coordination with the State Governments, take steps for the overall welfare of workers including, removal of poverty and indebtedness, raising the standard of living, modernizing the looms and making easy availability of raw materials at affordable prices and marketing of products of bamboo, cane, screw pine and mat.

(2) Without prejudice to the generality of the foregoing provision, the Authority shall,—

(a) formulate and implement welfare policy for the bamboo, cane, screw pine and mat weavers and workers;

(b) maintain a District-wise register of bamboo, cane, screw pine and mat weavers and workers with such particulars and in such manner as may be prescribed;

(c) regulate the service conditions of workers in such manner as may be prescribed;

(d) fix minimum wages for bamboo, cane, screw pine and mat weavers and workers from time to time;

(e) ensure modernization of techniques of plants, producing and value adding of bamboo, cane, screw pine and mat weaver products;

(f) encourage and provide all necessary assistance to bamboo, cane, screw pine and mat weavers cooperatives;

(g) organize exhibitions, melas and such other activities to promote products of bamboo, cane, screw pine and mat in different parts of the country;

(h) make suitable arrangements for purchase of products of bamboo, cane, screw pine and mat weavers by Government department undertakings and agencies on cash and carry basis;

(i) encourage export of bamboo, cane, screw pine and weavers products; and

(j) perform such other functions as may be assigned to it by the Central Government from time to time.

Constitution of
Bamboo, Cane,
Screw Pine and
Mat Weavers
and Workers
Welfare Fund.

5. (1) The Central Government shall, by notification in the Official Gazette, constitute a Fund to be called the Bamboo, Cane, Screw Pine and Mat Weavers and Workers Welfare Fund.

(2) The Central Government and the State Governments shall contribute to the Fund in such ratio as may be prescribed.

(3) There shall also be credited to the Fund such other sums as may be received by way of donations, contributions, assistance or otherwise from individuals and organisations.

(4) The Fund shall be utilized for—

(a) providing interest free consumption loans to bamboo, cane, screw pine and mat weavers and workers;

(b) making *ex-gratia* payments at prescribed rates to each of the bereaved families of bamboo, cane, screw pine and mat weavers who die in harness;

(c) providing loans at nominal rate of interest for purchasing necessary raw materials to the bamboo, cane, screw pine and mat weavers and workers;

(d) providing insurance cover to all bamboo, cane, screw pine and mat weavers and workers;

(e) providing healthcare facilities to the bamboo, cane, screw pine and mat weavers and workers and their dependent family members;

(f) providing educational facilities and vocational training to the wards of bamboo, cane, screw pine and mat weavers and workers; and

(g) such other welfare measures as may be prescribed.

6. (1) It shall be the duty of the Central Government to ensure regular supply of raw materials to the bamboo, cane, screw pine and mat weavers and workers at affordable and subsidized rates.

Central Government to ensure regular supply of raw materials.

(2) It shall be compulsory for all Ministries, Departments and Subordinate Offices under the appropriate Government and Public Sector Enterprises to purchase their entire finished goods requirements exclusively from the primary bamboo, cane, screw pine and mat weavers and workers.

(3) The appropriate Government shall take steps to minimize the export of raw material used for products of bamboo, cane, screw pine and mat weavers and workers.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide to the Authority such sums as it may consider necessary for the efficient functioning of the Authority.

Central Government to provide Funds.

8. (1) The Authority shall prepare, in such form and manner, as may be prescribed, an annual report giving a true and full account of its activities during the previous year and submit it to the Central Government.

Annual Report.

(2) The Central Government shall cause to be laid before each House of the Parliament the report submitted to it under sub-section (1).

9. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of the period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of the Parliament.

10. The Provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Act not in derogation of any other law for time being in force.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Bamboo, cane, screw pine and mat industry is one of the largest segments in the unorganized sector. It is a traditional industry and hence has a unique place in our economy. This sector has sustained itself by transferring skills from one generation to another. Adoption of modern techniques has become an urgent necessity because the sector faces challenges of extinction due to the ill effects of economic liberalization. The scarcity of raw materials, absence of human resource with modern skills, lack of research and development and innovation are the threats for this traditional industry. More than one million families depend on the sector directly. And hence this Bill is of an urgent nature.

The workers in this sector mostly belong to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes and minority categories. The majority of them are women workers. The sector is not doing very well and is on the verge of collapse and extinction. The foremost reason for this is non-availability of raw materials at affordable prices and non-availability of loans at low interest rate from banks and other financial institutions to this sector for purchasing raw material and other necessary items. The facility of marketing for bamboo products is also a handicap for these poor people. The most disturbing and sad part is that most of the workers engaged in bamboo, cane, screw pine and mat industry are alarmingly poor. The problem is further compounded by powerful lobbying from the exporters of raw materials. Bamboo, cane, screw pine and mat weavers and workers have been at the receiving end due to changes shaped by globalization and transient socio-economic conditions. For decades, most bamboo, cane, screw pine and mat weavers and workers never had any access to various policies and schemes meant for their growth and benefit. On the other hand, Government departments and implementing agencies do not have adequate information and data that would have helped in increasing the reach of such programmes and policies. There has been, thus, a widening gap between policy formulation and implementation.

It is, therefore, proposed to constitute a National Bamboo, Cane, Screw pine and Mat Weavers and Workers Authority to take steps for welfare and overall development of weavers and workers engaged in the sector and for promotion and effective implementation of policies of this sector in the country.

Hence this Bill.

NEW DELHI;
February 13, 2017.

A. SAMPATH

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to establish the National Bamboo, Cane, Screw pine and Mat Weavers and Workers Welfare Authority. Clause 4 provides for certain steps to be taken by the Authority for welfare of Bamboo, Cane, Screw pine and Mat Weavers and Workers. Clause 5 provides for the constitution of Bamboo, Cane, Screw pine and Mat Weavers and Workers. Clause 6 provides that the Central Government shall ensure supply of raw materials to Bamboo, Cane, Screw pine and Mat Weavers and Workers. Clause 7 provides that the Central Government shall provide funds to the Authority. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees two hundred crores per annum would be involved from the Consolidated Fund of India.

A non-recurring expenditure of rupees fifty crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 202 OF 2017

A Bill further to amend the Reserve Bank of India Act, 1934.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title, and
commencement.

1. (1) This Act may be called the Reserve Bank of India (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2 of 1934.

2. In section 2 of the Reserve Bank of India Act, 1934 (hereinafter referred to as the principal Act),—

Amendment of
section 2.

(a) the existing clause (aii) and (aiii) shall be re-numbered as clauses (ai) and (aia), respectively and before the clause (ai) as so re-numbered, the following clause shall be inserted, namely:—

"(a) "annual report" means the annual report of the bank under this Act;"

(b) after clause (cii), the following clause shall be inserted, namely:—

(cii) "Inquiry Committee" means the Inquiry Committee constituted under section 11A;"

(c) after clause (ccc), the following clause shall be inserted, namely:—

(ccci) "non-Executive Director" means a Director of Central Board other than the Governor, Deputy Governor and Government nominated Director;"

(d) after clause (cccci), the following clause shall be inserted, namely:—

(ccccii) "publish" means publishing of information in manner best suited to bring it to attention of the person who are affected by the information and to public at large, including by way of electronic means, as soon as may be practicable;" and

(e) after clause (cv), the following clause shall be inserted, namely:—

(cvi) "regulations" means the regulations made under this Act;"

3. In section 7 of the principal Act, for sub-section (3), the following sub-sections shall be substituted, namely:—

Amendment of
section 7.

"(3) The Central Board may, by notification in the Official Gazette, make regulations delegating the functions of the Board to the Governor or any other Director or employee of the Bank, subject to any condition that may be provided in the regulations, as the case may be:

Provided that the Central Board shall not delegate the functions mentioned under sub-section (4) of this section, sub-section (7) of section 45ZT, sub-section (3) of section 45ZU and sub-section (1A) of section 58 of this Act.

(4) Save as otherwise provided in this Act, the Governor, and in his absence a Deputy Governor nominated by him in this behalf shall have the powers of the general direction and control in respect of all administrative matters of the Bank.

(5) The Central Board shall review the performance of the Bank in giving effect to the objectives, carrying out the functions and utilizing the resources of the bank in such manner as may be prescribed.

4. In section 8 of the principal Act,—

Amendment of
section 8.

(a) in sub-section (1),—

(i) in clause (a) for the words "not more than four", the words "at least two and not more than four" shall be substituted;

(ii) clause (b) shall be omitted; and

(iii) for clause (c), the following clause shall be substituted, namely:—

"(c) at least two and not more than five non-Executive Directors to be appointed by the Central Government;"

(iv) in clause (d) for the words "two Government Officials", the words "at least one and not more than two Government officials" shall be substituted;

(b) in sub-section (3),—

(i) the words "A Deputy Governor and" shall be omitted; and

(ii) the proviso thereto shall be omitted;

(c) in sub-section (4) for the words "not exceeding five years", the words "which shall not be less than three years but which may extend upto five years"; and

(d) after sub-section (7), the following sub-section shall be inserted, namely:—

"(8) The terms on which a Director is appointed shall not be varied to his disadvantage after appointment."

Amendment of
section 10.

5. In section 10 of the principal Act,—

(i) in sub-section (1), after clause (e), the following clauses shall be inserted, namely:—

"(f) is a Member of Parliament, State Legislature, a local legislature under Part VIII of the Constitution of India, a Panchayat or a Municipality;

(g) has served as the Chairperson of other financial regulators namely Securities and Exchange Board of India, Insurance Regulatory and Development Authority and Pension Fund Regulatory and Development Authority."; and

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) A person cannot be appointed as the Director if that person is a Director of the Monetary Policy Committee constituted under section 45ZB unless that person is the Governor or a Deputy Governor designated to serve on the Monetary Policy Committee.

Insertion of
new section
10A.

6. After section 10 of the principal Act, the following section shall be inserted, namely:—

"10A. (1) The Central Government shall, for the purposes of nomination of Directors under clause (d) of sub-section (1) of section 8, constitute a Selection Committee for shortlisting of persons to be appointed as a Director in accordance with provision of the Sixth Schedule.

(2) The Selection Committee constituted under sub-section (1) shall follow the procedure laid down in the Sixth Schedule.

(3) The Selection Committee shall, while considering the shortlisting of persons to be appointed as Directors, take into account following factors,—

(a) merit;

(b) balance of the central board;

(c) independence; and

(d) conflict of interest.

Explanation.—For the purposes of sub-section (3),—

(a) "merit" means qualifications, experience and expertise, as per the conditions of eligibility for appointment to the Central Board of that Financial Agency;

(b) "balance of the Central Board" means that the Central Board proportionately and adequately represents different skills and expertise as per the conditions of eligibility for Directors;

(c) "independence" means the ability to maintain and exercise independent judgement in the discharge of duties; and

Selection of
certain
Directors.

(d) "conflict of interest" means that person appointed do not have interests which may conflict with the duties of that Director."

7. In section 11 of the principal Act,—

Amendment of
section 11.

(i) in sub-section (2), the words 'clause (b) or' shall be omitted;

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) Notwithstanding anything contained in sub-section (3), the Central Government shall remove from office any Director if he has—

(a) been adjudged insolvent;

(b) been sentenced to imprisonment for one hundred and eighty days or more;

(c) been convicted of an offence involving moral turpitude;

(d) acquired any financial or other interest contrary to the terms and conditions of his service that is likely to prejudice his functions;

(e) failed to adequately disclose any direct or indirect pecuniary interest;

(f) made any material misrepresentation to the Selection Committee;

(g) abused his position so as to render his continuance in office prejudicial to the objectives of the Bank;

(h) become physically incapable of discharging his duties; and

(i) become of unsound mind."

(iii) in sub-section (5), the words "The nomination as Director or member of a Local Board of any person who is a Member of Parliament or the Legislature of any State shall be void, unless, within two months of the date of his nomination, he ceases to be such member, and," shall be omitted.

8. After section 11 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new sections
11A and 11B.

"11A. (1) The Central Government shall, for the purposes of removal of a Director appointed under this Act, constitute an Inquiry Committee to inquire into the grounds specified in sub-section (3A) of section 11 for removal of a Director.

Procedure for
removal of a
Director.

(2) The Inquiry Committee shall consist of,—

(a) two sitting or retired judges of the Supreme Court or a High Court; and

(b) one independent expert having experience in the field of finance and public administration, to be nominated by the Central Government, in consultation with the Chief Justice of India in such manner as may be prescribed.

(3) The Inquiry Committee shall be chaired by the senior-most judge from amongst the judges nominated under clause (a) of sub-section (2).

(4) The Inquiry Committee shall, prior to removal of a Director from his office,—

(a) issue him an inquiry notice; and

(b) provide him a reasonable opportunity of being heard.

(5) The Central Government shall provide the Inquiry Committee, in writing, all facts and information relevant for the removal of the Director.

(6) The Inquiry Committee shall, within thirty days from the date of issue of notice under clause (a) of sub-section (4), submit a written report to the Central Government stating,—

(a) whether the grounds on which the Central Government proposes to remove the director have been met; and

(b) the facts and reasons in support of its opinion.

(7) If the report of the Inquiry Committee under sub-section (6) states that any ground for removal has been met, then the Central Government shall publish,—

(a) a notification for removal of the Director from the Central Board; and

(b) the report made under sub-section (6).

(8) Every notification under clause (a) of sub-section (7) shall be published within a period of thirty days from the date of submission of the report by the Inquiry Committee:

Provided that if the Central Government had issued a suspension order under section 11B then the notification shall be published within a period of fifteen days from the date of submission of the report by the Inquiry Committee.

(9) The Director shall cease to hold office from the date of publication of the notification under sub-section (7).

Explanation.—For the purposes of this section, "inquiry notice" means a notice which—

(a) is in writing;

(b) states the grounds on which the Director is proposed to be removed;

(c) contains all the facts and information provided to the Inquiry Committee by the Central Government; and

(d) allows the Director to make written representations to the Inquiry Committee against such proposed removal within a reasonable time stated in that notice.

(10) The Central Government shall allocate adequate resources to the Inquiry Committee for carrying out its functions efficiently.

11B. (1) Where the Central Board is satisfied that any of the grounds mentioned under sub-section (3A) of section 11 for removal of a Director have been met, it may recommend to the Central Government the temporary suspension of such Director.

(2) Every recommendation made under sub-section (1) to the Central Government shall,—

(a) be in writing and signed by all Directors of the Central Board; and

(b) not bind the Central Government to suspend the concerned Director.

(3) Where the Central Government accepts the recommendation of the Central Board, it shall—

(a) issue a suspension order; and

(b) constitute the Inquiry Committee within fifteen days from the date of issue of such suspension order.

(4) The Inquiry Committee shall, in writing, recommend the temporary suspension of a Director to the Central Government which shall be binding on it.

(5) Every suspension order issued under sub-section (3) shall,—

(a) be in writing;

(b) be made after giving the concerned Director a reasonable opportunity of being heard;

(c) state the reasons for suspension;

(d) be accompanied with the recommendation of the Central Board or the Inquiry Committee, as the case may be; and

(e) cease to have effect on the date on which the Inquiry Committee submits its report under sub-section (6) of section (IIA).

(6) The Central Government may reverse a suspension order issued under sub-section (3) if,—

(a) the recommendation for suspension made by the Central Board and the Inquiry Committee has not been established, on a written recommendation of the Central Board signed by all directors of the Central Board; and

(b) in all other cases, on a written recommendation by the Inquiry Committee.

(7) Every Director suspended under this section shall be entitled to such salary, allowances and other benefits as per the conditions of service applicable to him."

9. In section 12 of the principal Act,—

Amendment of section 12.

(i) in sub-section (1), after words "appoint", the words ",within fifteen days from the date of occurrence of vacancy," shall be inserted;

(ii) in sub-section (4), after words "Central Government", the words "within one-hundred and twenty days from the occurrence of the vacancy" shall be inserted; and

(iii) after sub-section (4), the following proviso shall be inserted, namely:—

"Provided that the casual vacancy shall not reduce the minimum strength of the Central Board below six."

10. For section 13 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 13.

"13. (1) Every meeting of the Central Board shall be held in accordance with the provisions of the Seventh Schedule.

Meetings of the Central Board.

(2) The Central Board shall make regulations consistent with the requirements of the Seventh Schedule to regulate the proceedings of its meetings.

(3) The Central Board shall discharge its duties by taking decisions through a majority vote of the Directors present at the meeting.

(4) Every director shall have one vote:

Provided that if there is an equality of votes, the person chairing the meeting shall, unless otherwise stipulated in the regulations have a casting vote.

(5) Any Director who has any direct or indirect interest in any matter likely to come up for consideration at a meeting of the Central Board shall, as soon as possible, after the relevant circumstances have come to his knowledge, disclose the nature of his interest to the Central Board.

(6) Every disclosure made by a Director under sub-section (5) shall be recorded in the proceedings of the meeting of the Central Board at which the matter comes up for discussion and that Director shall recuse from any deliberation or decision of the Central Board with respect to that matter.

(7) No act or proceeding of the Central Board shall be invalid merely by reason of,—

(a) any vacancy or defect, in the constitution of the board; or

(b) any defect in the appointment of a person as a director; or

(c) any violation of the regulations of the Bank not affecting the merits of the decision."

Insertion of
new Chapter
IIIF.

11. After Chapter IIIF of the principal Act, the following new Chapter IIIG shall be inserted namely:—

"CHAPTER IIIG

ACCOUNTABILITY MECHANISM FOR BANK

Review of
performance of
Central Board.

45ZP. (1) The Central Board shall evaluate the performance of each Director in such manner as may be prescribed.

(2) The Central Board shall make regulations stipulating the process to be followed by it for evaluating the performance of its Directors, including the requirement of a Director to recuse himself from deliberations or decisions involving an evaluation of his performance.

Audit
Committee.

45ZQ. (1) The Central Board shall establish an Audit Committee consisting of at least two non-executive Directors to review whether—

(a) the Bank is in compliance with applicable laws;

(b) the regulations of the Bank promote transparency and best practices of governance;

(c) the Bank is in compliance with the decisions of the Central Board; and

(d) the Bank is managing risks to its functioning in a reasonable manner.

(2) The Audit Committee shall make a report, at least once every financial year, of its findings under this section, to the Central Board and the report shall be attached with the annual report.

(3) The Audit Committee shall maintain a system by which any person may communicate to the Audit Committee, any incidence of—

(a) violation of laws by the Bank;

(b) theft or misappropriation of resources of the Bank by any person;

(c) abuse of powers of the Bank by any Director, employee or agent of the Bank; or

(d) violation of any decision of the Central Board by any Director, employee or agent of the Bank.

(4) The Central Board shall make regulations governing information to be provided to the Audit Committee, and the provision of adequate resources to enable the Audit Committee to discharge its functions under this Act effectively.

(5) Every director of the Audit Committee shall not serve for more than five years continuously in that Committee.

Publication of
Information.

45ZR. (1) The Bank shall maintain a website or any other universally accessible repository of electronic information to—

(a) publish all information that the Bank is obliged to publish under this Act or any other law;

(b) provide a copy of all rules, regulations, regulations made and all guidance issued, by the Bank including all amendments to these rules, regulations, regulations and guidance;

(c) provide information about the manner in which applications to the Bank are to be made; and

(d) provide material information about the functions of the Bank.

(2) The Central Board shall review the quality of the website or other repository, based on international best practices, at least once every three years.

(3) The Central Board shall prepare and publish the report regarding the findings of the review conducted under sub-section (2) of this section along with the annual report.

(4) The Bank may make regulations for effective implementation of the provisions of this section.

(5) Any information not published on the website or other universally accessible repository of the Bank as per the requirements of this section shall be presumed to not have been published, for the purposes of this Act.

45ZS. (1) The Bank shall prepare a report of expenditure with respect to each of its functions and objectives for each financial year.

Allocation and use of resources by the Bank.

(2) The Bank shall maintain a system of allocation of resources to carry out its functions and meet its objectives as stated in its report of expenditure.

(3) The Central Government may prescribe additional reports which the Bank shall prepare relating to its expenditure.

(4) The Central Board shall, at least once every three years, review the quality of the report of Bank and its system of allocation of resources to ensure compliance with the provisions of this section.

(5) The reports of expenditure shall be published with the annual report of the Bank in such manner as may be prescribed.

45ZT. (1) The Bank shall develop a system to measure its performance of each function required to be carried out, and the efficiency with which that function was discharged.

Performance and the efficiency of the Bank.

(2) The Bank shall make regulations setting out the system of measurement referred to in sub-section (1).

(3) The Bank shall lay down goals for the discharge of each function imposed on it by this Act for the financial year.

(4) The Bank shall measure its efficiency in relation to its functions in accordance with the system developed under sub-section (1) in a reasonable and objective manner for each financial year.

(5) The Bank shall at the end of each financial year prepare a report comparing information from sub-section (4) with the goals that were set for the financial year under sub-section (3).

(6) The Central Government shall prescribe additional reports which the Bank shall make relating to the performance and discharge of its functions.

(7) The Central Board shall, at least once every three years, review the quality of the report made under sub-section (6) to ensure compliance with the requirements of this section.

(8) The report of efficiency and performance shall be published with the annual report.

Explanation.— For the purposes of this section, "reasonable and objective manner", in relation to the system of measurement includes,—

(a) a system of measurement that best represents any function being measured;

Returns and
Reports.

- (b) a standardised system that allows comparison, where possible; and
- (c) quantitative systems of measurement, where possible.

45ZU. (1) The Bank shall furnish to the Central Government at such time reports, and in such manner and form containing such returns, statements and particulars, with regard to proposed or existing operations of the Bank as may be prescribed.

(2) The Bank shall prepare and transmit to the Central Government a weekly account of the Issue Department and of the Banking Department in such form as the Central Government may, by notification in the Gazette of India, prescribe.

(3) The Central Government shall cause every account mentioned under sub-section (2) to be published in the Gazette of India at such intervals and in such modified form as it may deem fit.

(4) The Central Board shall submit to the Central Government an annual report within ninety days from the end of every financial year.

(5) The Central Board shall publish the annual report on the same day as or before the date on which it is submitted to the Central Government.

(6) The annual report shall be in such manner and form as may be prescribed, and must give a true and full account of the performance of the Bank in the previous financial year including,—

(a) a review of its activities in relation to the discharge of its functions and the achievement of its objectives; and

(b) all information that is necessary to understand the discharge of functions and the achievement of the objectives that has been published by the Bank.

(7) The annual report shall contain,—

(a) the report of the Review Committee established under section 45ZQ;

(b) findings of the review of the quality of the website or other repository made under section 45ZR;

(c) report of expenditure submitted under section 45ZS;

(d) report on the performance and efficiency of the Bank submitted under section 45ZT;

(e) certified accounts, audit report, and the observations of the Central Board made under section 45ZV;

(f) with respect to the Bank,—

(i) description of the business of the Central Government carried out by the Bank; and

(ii) description of the business of State Governments carried out by the Bank.

(g) a statement of the deliberations of the Bank accompanied by the records of its meetings;

(h) a statement indicating any statutory obligation that the Bank or the central board has not complied with, and reasons for such non-compliance;

(i) a statement by the Governor, in relation to the activities and performance of the Bank;

(j) a statement of major activities the Bank is planning to undertake in the subsequent financial year; and

(k) a statement which any director of the central board may wish to include.

(8) The Central Government shall lay a copy of the annual report, as soon as possible, after its receipt before each House of Parliament, for a total period of thirty working days to be calculated in the manner specified under sub-section (4) of section 58 of this Act.

45ZV. (1) The Bank shall, in consultation with the Comptroller and Auditor-General of India maintain accounts and other relevant records and audit prepare an annual statement of accounts in such form as may be prescribed. Accounts and Audit.

(2) The Bank, shall, while preparing its financial statements, comply with accounting standards to the extent that is in the opinion of the Central Board appropriate to do so having regard to the objects and functions of the Bank.

(3) The accounts of the Bank shall be audited annually by the Government auditor.

(4) The audit by the Government auditor shall not include an audit of performance of the Bank.

(5) The Government auditor, shall,—

(a) certify the accounts of the Bank; and

(b) make an audit report.

(6) The Government auditor shall be provided at all reasonable times access to the books, accounts and other documents of the Bank, and may, at the expense of the Bank, employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine any Director or Officer of the Bank.

(7) The certified accounts and the audit report must be placed before the Audit Committee and the Central Board, which must record its observations on the audit report.

(8) In relation to the audit of the accounts of the Bank, the Government auditor shall not audit—

(a) the deliberations, decisions or minutes of the Monetary Policy Committee constituted under this act and the actions of the Bank in relation to implementing monetary policy decisions;

(b) the transactions by the Bank to provide any kind of short term, temporary and emergency liquidity system in order to maintain the stability of the economy and credit system of India;

(c) any part of a discussion or communication between Directors of the Central Board, Directors of the Monetary Policy Committee, and officers and employees of the Reserve Bank mentioned under clauses (a) and (b).

(9) The Bank shall preserve such audit records for such period of time and in such manner as may be prescribed.

Explanation.—For the purposes of this section, "Government auditor" means the Comptroller and Auditor-General of India, or any other person appointed by the Comptroller and Auditor-General of India in this regard."

12. Sections 50, 51, 52 and 53 of the principal Act shall be omitted.

Omission of sections 50, 51, 52 and 53.

Amendment of
section 58.

13. In section 58 of the principal Act, after sub-section (I), the following section shall be inserted, namely:—

"(1A) The Central Board shall approve each and every regulation proposed to be made by the Bank on the basis of an analysis of costs and benefits with respect to the regulations proposed, carried out by the Bank, among other things."

Insertion of
Sixth and
Seventh
Schedules.

14. After the Fifth Schedule to the principal Act, the following Schedules shall be inserted, namely:—

**"SIXTH SCHEDULE
SELECTION COMMITTEE**

(See section 10A)

(I) Constitution of Selection Committee:—

(a) The Central Government shall maintain a list of at least ten independent experts from the fields of finance, law, and economics who are available to serve as experts on the selection committee.

Explanation.—For the purposes of item (a), "independent" means independent of the Central Government, State Government and the Bank.

(b) The Selection Committee shall comprise,—

(i) a Chairperson of the selection committee;

(ii) three independent experts; and

(iii) a variable Director as defined in item (e) of this paragraph.

(c) The Chairperson shall be a nominee of the Central Government.

(d) The Chairperson of the Selection Committee shall select the three independent experts from the list maintained under item (a).

(e) The variable Director shall be,—

(i) a nominee of the Central Government for the selection of Governor of the Bank; and

(ii) the Governor for selection of all other Directors of the Bank.

(f) The Central Government shall provide the Selection Committee with adequate resources to advertise the vacancies in the office for which selection is made and carry out the selection in an efficient manner.

(2) Procedure to be followed by the Selection Committee:—

(a) The Selection Committee shall make a document stating the procedure it shall follow for selecting from candidates.

(b) The procedure shall be fair, transparent and efficient.

(c) The selection Committee shall advertise the vacancy and the procedure for selecting from candidates to attract the attention of suitable candidates.

(d) The selection Committee may consider candidates who have not applied after recording reasons for considering such candidates.

(e) The Selection Committee may nominate up to two candidates for every vacancy for which it has been constituted.

(f) The Selection Committee shall complete its selection procedure within one hundred days of being constituted which may be extend by twenty more days with permission of the Central Government.

SEVENTH SCHEDULE
PROCEDURE FOR MEETINGS OF CENTRAL BOARD

(See section 13)

(1) The Central Board shall meet as frequently and at such place as may be stipulated in the regulations.

(2) The Governor of the Bank shall chair meetings of the Central Board and if Governor is not present, the person who has served as Director for the longest period of time shall chair the meeting, unless otherwise stipulated in the regulations.

(3) If two or more Directors of the Central Board request a meeting in writing, the Governor shall convene a meeting of the Central Board within thirty days of such request, failing which the directors seeking the meeting may convene the meeting without the Governor after the lapse of the thirty day period.

(4) Subject to at least one physical meeting in a year, the Directors may attend meetings of the Central Board by suitable technological means without being physically present.

(5) The quorum for a meeting of the board shall be more than half of the total number of directors save the director(s) nominated by the Central Government.

(6) Each Director shall be given at least seven days prior written notice of a meeting.

(7) In special circumstances, a shorter notice of a meeting may be given, and such circumstances shall be clearly recorded at that meeting.

(8) The Secretary of the Central Board will be responsible for keeping the records of every meeting of the central board.

(9) The records shall be published by the Bank within three weeks of each meeting.

(10) Selected portions of records may be published with appropriate delay if, they,—

(a) relate exclusively to the conduct of individuals with regard to the performance of their functions within the Bank;

(b) relate to information that has been obtained from a person in confidence, where such information is exempt from disclosure by that person under the Right to Information Act, 2005;

(c) involve discussion of a particular instance of violation of laws or censuring any person;

(d) disclose information about a particular investigation which is ongoing;

(e) disclose techniques for investigation or inspection;

(f) disclose information of a commercial nature relating to a financial service provider which has been obtained for regulatory purposes; or

(g) deprive a person of a right to a fair and impartial adjudication.

(11) The selected portions of records mentioned in item (9) shall not be published if, they,—

(a) are likely to lead to systemic risk;

(b) are likely to significantly frustrate implementation of an action proposed by the or Bank or the central board, where such action has not been disclosed to the public; or

(c) involve discussion of any particular legal proceeding before a tribunal, court or arbitrator.

(12) The publication of portions of records relating to a particular meeting may be delayed or prevented only if the Central Board, in such meeting,—

(a) records the reason in respect of such portions of the records;

(b) the majority of directors present at the meeting vote in favour of such action for each portion of the records separately; and

(c) the vote of each director is recorded and published in accordance with item (9).

(13) The portions of records delayed for publication must be published by the Bank within six months, or as soon as the reasons for their delay cease to be applicable, whichever is later.

(14) In this Schedule, "records" mean the agenda, proposals, and decisions taken at the meeting, and includes the votes of each directors present at the meeting."

STATEMENT OF OBJECTS AND REASONS

The Reserve Bank of India (RBI) is one of the principal institutions of financial and economic governance with a well-defined sphere of activity, distinct and differentiated from other areas in India. It is primarily responsible for monetary stability, regulation of banking operations, management of foreign exchange reserves and issuing of currency.

However, lately questions have been raised over the role and functioning of the RBI's Central Board which is the governing authority of the Bank. The Public Accounts Committee too has questioned the Governor of RBI about the role of the Central Board. Further, in terms of transparency and accountability it lags behind its international counterparts like the Federal Reserve and Bank of England. This indicates that there is a need to change the way it functions.

However, the Central Board as an institution is bound by the provisions of the Reserve Bank of India Act, 1934. It cannot change its behaviour on its own. Therefore, in order to transform the working of the Central Board and RBI as whole for better, the need is to amend the parent Act.

The Bill therefore, seeks to amend the Reserve Bank of India Act, 1934 with a view to make the functioning and working of the Central Board and RBI as a whole more efficient, transparent, accountable to the Parliament and general public without affecting its autonomous and independent character.

Hence this Bill.

NEW DELHI;
July 5, 2017.

KONDA VISHWESHWAR REDDY

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the constitution of a Selection Committee for short listing of persons to be appointed as a Director by the Central Government. Clause 8 provides for constitution of an Inquiry Committee to inquire into the grounds for removal of a Director appointed under this Act. Clause 11 of the Bill provides for establishment of an Audit Committee by the Central Board to review the functioning of the Bank. It also provides that the Bank shall maintain a website or any other universally accessible repository of electronic information. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of about rupees one crore would involve as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees two lakhs is also likely to be involved out of the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Central Board may, by notification in the Official Gazette, make regulations delegating the functions of the Board to the Governor or any other Director or employee of the Bank. Clause 10 empowers the Central Board to make regulations regarding the proceedings of its meetings. Clause 11 empowers the Central Board to make regulations stipulating the process to be followed by it for evaluating the performance of its Directors, including the requirement of a Director to recuse him from deliberations or decisions involving an evaluation of his performance. It also empowers the Reserve Bank of India to make regulations regarding publication of information which it is obliged to publish under this Act. As the regulations will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 169 OF 2017

A Bill to provide for compulsory harvesting of rainwater in every Government, residential, commercial and institutional building to conserve water and ensure recharge of groundwater and for matters connected therewith.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Rainwater (Harvesting and Storage) Act, 2017.

Short title,
extent and
commencement.

(2) It extends to the Union territories only.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. It is hereby declared that it is expedient in public interest that the Union Government undertake adequate measures to harvest rainwater so as to conserve water and prevent over-exploitation of existing water bodies.

Declaration.

Definition.

3. In this Act, unless the context otherwise requires:—

(a) "building" includes all such structures, sheds, houses and buildings which are wholly or partially owned, possessed built or occupied by the Government of India as may be notified by the Government under this Act;

(b) "commercial establishment" means any building which is being used as an office or factory or for any other commercial purpose in connection with any trade or business;

(c) "Government" means the Central Government or the Union territory Administration, as the case may be;

(d) "Government building" means any building occupied or being used by any Government department or Ministry and includes offices of public sector enterprises, statutory bodies, bodies owned or administered by the Government, autonomous bodies, bodies of local self government and residential areas provided by the Government to government employees and those under Public Private Partnership Mode;

(e) "household" means a dwelling unit of any description;

(f) "housing society" means a dwelling unit in a complex or building;

(g) "prescribed" means prescribed by rules made under this Act; and

(h) "rainwater harvesting" means collection and storage of rainwater from rooftop of a building or other parts of a building or from a vacant land for use or for the purpose of groundwater recharge.

Compulsory rainwater harvesting in Government buildings.

4. It shall be the duty of the Government to ensure and implement such measures, as it may deem necessary and appropriate, to harvest rainwater in Government building within such time as may be prescribed.

Compulsory rainwater harvesting by households and residential establishments.

5. (1) Every owner of an independent household building having area of not less than 1100 square Meters or every owner who proposes to construct an independent household building on a sital area of not less than 1100 square Meters shall install rainwater harvesting structures for storage and for use of harvested water or for groundwater recharge.

(2) It shall be obligatory for the builders and promoters of every building and housing society which receives any type of financial assistance or concessions from the Central Government to install rainwater harvesting structure on the top of every building or in the land forming part of the property, in order to meet a part of its total requirement of water in such manner as may be prescribed.

(3) The responsibility to ensure compliance of the provisions of sub-section (2) shall lie with the developer or builder of the proposed building or housing society.

Explanation:— For the purposes of this section "builder" or "developer" means the company or individual or group of individuals responsible for the planning and construction of the building or housing society.

Compulsory rainwater harvesting by commercial establishment.

6. (1) Every commercial establishment having any type of contracts or assignment with the Government of India shall adopt such measures to provide rain water harvesting structures for storage and for use of harvested water or for groundwater recharge within the premises of the commercial establishment.

(2) The responsibility to ensure compliance of the provisions of sub-section (1) shall lie on the person, by whatever name called, who is primarily responsible for the affairs of that establishment.

- 7.** (1) The Government shall, as soon as possible, prepare an action plan to educate the masses about the technology and the benefits of rainwater harvesting. Action plan to educate the masses about rainwater harvesting.
- (2) For the purpose of spreading awareness and promotion of rainwater harvesting including awareness and promotion through internet, the Government shall encourage non-Governmental Organisations and other agencies or institutions engaged in the field of rainwater harvesting by providing them adequate financial assistance.
- 8.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds, from time to time, for carrying out the purposes of this Act. Central Government to provide requisite funds.
- 9.** Whoever contravenes the provisions of this Act shall be punished with imprisonment for a term which may extend up to two years and with fine which may extend up to rupees one lakh. Punishment.
- 10.** The provisions of this Act and rules made there under shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Act to have overriding effect.
- 11.** This provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force. Act not in derogation of other laws.
- 12.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.
- (2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Water availability per capita has been on the decline in India due to increasing demand for water and the rapid population growth. The quantum of water available in the country being fixed, the increasing demand has reduced per capita water availability.

There is a large-scale pollution of water as a result of industrialization and urbanization, a trend which has to be checked. Water in most industries is used for cooling purposes, thus, it is not necessary to use potable water. Instead, the recycled water may be used for this purpose. Demand of water for domestic use can also be reduced. For example, in most urban areas about 12.5 litres of water is used in one flushing. By using the recycled water over and over again, fresh water can be conserved.

Compulsory rainwater harvesting is, therefore, need of hour. It will not only reduce the burden on limited water resources but will also ensure sustainability for the future generations.

Hence this Bill.

NEW DELHI;
July 7, 2017.

A. SAMPATH

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides that the Government shall provide adequate financial assistance to non-Governmental organizations and other agencies or institutions engaged in the field of rainwater harvesting for the purpose of spreading awareness among people about the importance of rainwater harvesting. Clause 8 provides that the Central Government shall provide requisite funds for carrying out the purposes of this Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five hundred crore is likely to be involved as recurring expenditure per annum.

A non-recurring expenditure of about rupees two hundred crore is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 174 OF 2017

A Bill to provide for the setting up of a Commission to exploit renewable energy resources in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title, extent
and
commencement.

1. (1) This Act may be called the Renewable Energy Resources Commission Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(i) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government.

(ii) “Commission” means the Renewable Energy Resources Commission set up under section 3;

(iii) “prescribed” means prescribed by rules made under this Act; and

(iv) “renewable energy” means energy obtained from non-conventional sources such as sunlight, wind, ethanol, jatropha, urban waste, geothermal sources, tides, waves or any other such source.

3. (1) The Central Government shall, by notification in the Official Gazette, set up a Commission to be known as the Renewable Energy Resources Commission for carrying out the purposes of this Act.

Renewable
Energy
Resources
Commission.

(2) The Commission shall consist of:—

(i) a Chairperson to be appointed by the Central Government having such qualification as may be prescribed;

(ii) one representative each from every State/Union territory to be nominated by the State Government/Union territory Administration concerned; and

(iii) one representative each from the NITI Ayog, Union Ministries of Power, Water Resources, River Development and Ganga Rejuvenation, Rural Development, Urban Development, Finance and Environment, Forest and Climate Change.

(3) The Secretary, Union Ministry of New and Renewable Energy shall be *ex-officio* Secretary to the Commission.

(4) The salary and allowances payable to and other terms and conditions of the service of the Chairperson and members of the Commission shall be such as may be prescribed.

4. (1) Every State Government/Union territory Administration shall, by notification in the Official Gazette, constitute a Renewable Energy Resources Commission for carrying out the purposes of this Act.

Every State
Government/
Union territory
Administration
to constitute
Renewable
Energy
Resources
Commission.

(2) The State/Union territory Commission shall consist of a Chairperson and such number of other members as the State Government/Union territory Administration may deem necessary for carrying out the purposes of this Act.

5. Every State/Union territory Commission shall, as soon as possible, but not later than one year from the date of commencement of this Act, identify the exploitable sources of renewable energy in their respective jurisdictions and send a report thereon to the Commission.

State
Government to
send detailed
report to the
Commissioner.

6. (1) The Commission shall, on receipt of report from the State/Union territory Commission, depute a team of experts to the State/Union territory to verify and assess the possibility of exploiting renewable energy resources.

Commission to
depute a team
of experts to
the State/Union
territory.

(2) The team of experts shall submit a report to the Commission at the earliest in such form and manner as may be prescribed.

(3) The Commission shall, on the basis of the report submitted by the team of experts, work out the estimated expenditure on the projects relating to exploitation of renewable energy and sent a report thereon to the Central Government.

7. The Central Government and the State Governments shall contribute towards the expenditure incurred on the projects relating to exploitation of renewable energy in such ratio as may be prescribed:

Central
Government
and State
Government to
contribute
towards the
expenditure.

Provided that the Central Government shall contribute not less than fifty per cent. of the total expenditure.

Projects to be completed in a time bound manner.

8. (1) The projects relating to exploitation of renewable energy shall be completed in a time bound manner.

(2) The Central Government shall release funds for the implementation of projects relating to exploitation of renewable energy after making such enquiry about the progress of projects, as it may deem fit.

Power to make rules.

9. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

India has vast reserves of natural resources—both renewable and non-renewable. In the last few decades, the over dependence on fossil fuels for meeting our energy needs have resulted in many ecological and climatological issues including globe warming. All over the world there is a shift towards greater use of renewable energy sources as they are not only available in abundance but also considered to be non-polluting in comparison to fossil fuels. All over world, more than twenty per cent. of energy requirements are being met through renewable energy sources. In our country, the dependence on fossil fuels is not at all good for our economy as we have to import more than fifty per cent. of our petroleum requirements. In the coming years, with the acceleration of industrialization and rising demand of energy from our people, demand for power is going to increase manifold and the situation may worsen if immediate steps are not taken to promote exploitation of renewable energy resources. It is proposed to constitute a Renewable Energy Resources Commission with a view to give fillup to the exploitation of renewable energy resources.

The Bill seeks to achieve the above objectives.

NEW DELHI;
July 10, 2017.

SUNIL KUMAR SINGH

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the setting up of a Renewable Energy Resources Commission. Clause 4 provides that similar Commissions shall be constituted in every State and the Union territory. Clause 6 provides that the Commission shall send a team of experts to the States and the Union territories with a view to verify the report sent by them and assess the possibility of exploitation of renewable energy resources. While the expenditure relating to States shall be borne out of the Consolidated Funds of the respective States, the expenditure in respect of Union territories shall be borne out of the Consolidated Fund of India. Clause 7 provides that the Central Government shall contribute to the expenditure incurred on the projects relating to exploitation of renewable energy in such ratio as may be prescribed. The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees ten thousand crore will be involved.

A non-recurring expenditure of about rupees five thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 213 OF 2017

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2017.

Short title.

2. In article 19 of the Constitution, for clause (2), the following clause shall be substituted, namely—

Amendment of article 19.

“(2) Nothing in sub-clause (a) of clause (1) shall,—

(a) affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence; and

(b) allow systematic, soft or outright discrimination and derogation against another faith or religion through addressing of mass gatherings, print media, social media, academic debates, (targeted) advertising or any other non-personal and open-door discussions.”.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India as a document was drafted after painstakingly long hours of negotiations, discussions and debates. A key objective was that it would stand the test of time of evolving social and cultural norms by upholding those values that a society is founded on. An obvious outcome of this is that it cannot be watertight to every challenge that is presented before it. An element of ambiguity is maintained so that law-makers, judiciary and the general public can tweak aspects according to the changing needs of time and ideas.

There is a growing trend in various societies of intolerance and systematic discrimination on the basis of religion. Based on such sentiment particularly towards the Islamic community, a first-of-its-kind Declaration was adopted by the Islamic Conference of Foreign Ministers to combat such defamation.

Generalizing such a specific idea so that all faiths could benefit from such protection, the United Nations Human Rights Council (UNHRC) adopted a Resolution, 7/19, titled "Combatting Defamation of Religions". The sole objective was to welcome international and regional initiatives to promote cross-cultural and interfaith harmony. While systematically derogatory remarks by various religious groups against one another take their own path in different societies, it only makes sense that an Indian context gets its own version of such a resolution (India abstained from voting towards this Resolution at the UNHRC meeting).

Opinions and philosophical discourses are perceived and interpreted differently by each individual. Every mind contains its own set of schema and heuristics that enables it to process information. While addressing an audience, as religious leaders and preachers, one must keep in mind that the message being conveyed is being received in several different ways. An illustration of this idea is as follows:

If a religious leader X addressing an audience (not all members of which are on the same intellectual level), negatively depicts another faith, there may be several members of this audience who may take this negative depiction more seriously than intended. This could lead to soft discrimination or outright violent struggles between the two groups.

In order to ensure that proper care is administered before addressing an audience gathered to receive religious discourse, the check on free speech is placed right next to its grant in the Constitution. The addition of this sub-clause will ensure credibility in the functions and purpose of the Constitution of India.

The Bill, therefore, seeks to amend the Constitution with a view to put a restriction on the fundamental right to freedom of speech and expression guaranteed under article 19(1) (a) by prohibiting any systematic, soft or outright discrimination and derogation against another faith or religion through addressing of mass gatherings, print media, social media, academic debates or any other non-personal and open-door discussions.

Hence this Bill.

NEW DELHI;
November 28, 2017.

KONDA VISHWESHWAR REDDY

BILL NO. 27 OF 2018

A Bill further to amend the Companies Act, 2013.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called as the Companies (Amendment) Act, 2018.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

18 of 2013.

2. In section 134 of the Companies Act, 2013 after sub-section (8), the following sub-section shall be inserted, namely:—

Amendment of
Section 134.

"(9) If the Registrar of Company after scrutinising the report provided under clause (o) of sub-section (3) finds it inappropriate, he shall pass an order directing the company to deposit a fine which shall not be less than the unspent amount marked by Corporate Social Responsibility Committee constituted under sub-section (1) of section 135 but which may extend upto twice of that amount and every officer who is in default shall be punishable with fine which may extend upto one thousand rupees for every day during which the default continues."

STATEMENT OF OBJECTS AND REASONS

The Companies Act, 2013 has been the first law in the world which has provided for the mandatory social contribution to be made by the Companies which had net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year. For carrying out the Corporate Social Responsibilities mandated by the Act, the companies are required to constitute a Corporate Social Responsibility Committee.

While the Companies Act, 2013 in section 135 provides for the general prerequisites associated with the Corporate Social Responsibilities and directs that the Board provides for a report as per clause (o) of sub-section (3) of section 134 citing reasons for failure in non-expenditure of amount earmarked for carrying Corporate Social Responsibility. The Companies Act, 2013 fails to carry out the intention behind insertion of section 135 as it doesn't contain any provision as to the penalty for this default. Even the Courts shy away from imposing any penalty. Due to the absence of sub provision, this mandatory social contribution has been reduced to dead letters. The same was also pointed out by the Committee on Public Undertakings in its December 2015 report titled 'CORPORATE SOCIAL RESPONSIBILITY IN SELECT CENTRAL PUBLIC SECTOR UNDERTAKINGS (CPSUs)'.

Hence this amendment has been introduced for effective implementation of the Corporate Social Responsibility regime in Indian environment.

Hence this Bill.

NEW DELHI;
November 30, 2017.

OM BIRLA

BILL NO. 167 OF 2017

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2017.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After section 75A of the Representation of the People Act, 1951, the following section shall be inserted, namely:—

Insertion of
new section
75B.

“75B. (1) Every member of either House of Parliament shall, within ninety days from the date on which he ceases to be member of that House, furnish the information relating to—

Declaration of
assets and
liabilities by
members of
Parliament on
cessation of
membership.

(i) movable and immovable property of which he, his spouse and his dependant children are jointly or severally owners or beneficiaries;

(ii) his liabilities to any public financial institution; and

(iii) his liabilities to the Central Government or the State Government,

to the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(2) The provisions of sub-sections (2) to (5) of section 75A including those relating to furnishing of information and making and laying of rules shall also apply, *mutatis mutandis*, to this section.”.

STATEMENT OF OBJECTS AND REASONS

The Representation of the People Act, 1951 provides for the conduct of elections to the Houses of Parliament and the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

Already, there are provisions for declaration of assets and liabilities by every elected candidate of either House of Parliament within a period of ninety days from the date on which he takes his seat. This helps in winning the trusts of voters and strengthen the roots of democracy. However, there is no such provision for declaration of assets and liabilities after the expiry of the term of membership of elected members of either House of Parliament. The proposed amendment seeks to disclose the income and assets even after the completion of the term of House by each Member of Parliament.

The proposed amendment in the parent Act will help in maintaining transparency and accountability of people's representative at the apex level. It will also help in creating a positive atmosphere of corruption free status for Members of Parliament.

Hence this Bill.

NEW DELHI;
July 11, 2017.

NINONG ERING

BILL NO. 223 OF 2017

A Bill further to amend the Press Council Act, 1978.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Press Council (Amendment) Act, 2017.

(2) It shall come into force on such date, as the Central Government may, by notification, in the Official Gazette, appoint.

Amendment of
section 2.

2. In the Press Council Act, 1978 (hereinafter referred to as the principal Act), in section 2, after clause (d), the following clause shall be inserted, namely:—

"(e) "Press" includes newspapers, new channels and news agencies;"

3. In the Principal Act, for the words "newspapers and news agencies", "newspapers or news agencies" and "the newspaper, the news agency", wherever they occur, the words "newspapers, news agencies and news channels", "newspapers or news agencies or news channels" and "the newspaper, the news agency and the news channel", respectively, shall be substituted.

Substitution of certain words with other words throughout the Act.

4. In section 5 of the principal Act,—

Amendment of section 5.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Council shall consist of a Chairman and twenty other members.";

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Of the other members—

(a) ten shall be nominated in accordance with such procedure as may be prescribed from among the working journalists in newspapers and news channels other than editors, so, however, that the number of such editors and working journalists other than editors in relation to newspapers published or news channels broadcasted, as the case may be, in Indian languages shall be not less than two and one, respectively;

(b) six shall be nominated in accordance with such procedure as may be prescribed from among persons who own or carry on the business of management of newspapers and news channels, so, however, that there shall be one representative each from the categories of big newspapers, medium newspapers, small newspapers, big news channels, medium news channels and small news channels;

(c) one shall be nominated in accordance with such procedure as may be prescribed from among persons who manage news agencies;

(d) three shall be members of Parliament of whom two shall be nominated by the Speaker from among the members of the House of the People (Lok Sabha) and one shall be nominated by the Chairman of the Council of States (Rajya Sabha) from among its members:

Provided that no working journalist who owns, or carries on the business of management of, any newspaper or news channel shall be eligible for nomination under clause (a):

Provided further that the nomination under clause (a) and clause (b) shall be so made that the among the persons nominated there is not more than one person interested in any newspaper or group of newspapers or news channel or group of news channels under the same control or management.

Explanation.—"For the purpose of clause (b),—

(i) a 'newspaper' shall be deemed to be categorized as big, medium or small newspaper on the basis of its circulation per issue, as the Central Government, may, by notification in the official Gazette, notify from time to time.

(ii) a 'news channel' shall be deemed to be categorized as big, medium or small news channel on the basis of its viewership, as the Central Government, may, by notification in the official Gazette, notify from time to time."

5. In section 13 of the principal Act, in sub-section (2), after clause (I), the following clause shall be inserted namely:—

Amendment of section 13.

"(Ia) to facilitate the constitution and promotion of inter-industry, private and self regulatory institutions of newspapers and news channels and ensure their proper functioning;"

STATEMENT OF OBJECTS AND REASONS

The Press Council Act provides constitution of "The Press Council of India" for purpose of preserving the freedom of the Press and for maintaining and improving the standards of newspapers and news agencies in India.

During the period of enactment of the Act, only the industry of newspapers and news agencies existed. Television was in experimental phase. With development of audio-visual and satellite technologies, television news channels emerged as a major industry with greater share in information industry and greater influence on perception of citizens. Therefore, for improving the standards and to curb the malpractices of the broadcast news, the news channels are needed to be brought under the control of the Press Council of India.

The large number of members in the Council leads to slow decision making. Besides, there are representatives from such Government institutions which do not hold much relevance in relation to the news industry, say, representatives of the UGC, the Bar Council of India, and the Sahitya Academy. The need is to reduce the number of representatives from the Parliament from five to three to reduce the political influence on the Council. Hence, the Bill proposes to reduce the number of members of the Council from twenty-eight to twenty, and its provisions include representatives from the news channel industry.

Self regulation leads to better maintenance of the industry and lesser conflicts. The basic elements of self-regulation usually consists of a code of practice or guidelines adopted by the industry and processes by which application of the code or principles may be assessed, complaints handled and corrections applied. Therefore, besides regulation by a public institution, the inter-industry regulation should be encouraged. The Bill also seeks to include the provision to constitute, promote and check the functioning of self regulatory institutions for newspapers and news channels within the purview of the Press Council of India.

Hence this Bill.

NEW DELHI;
November 28, 2017.

NINONG ERING

BILL NO. 270 OF 2017

A Bill to provide for the delivery of notified public services to citizens within the stipulated time limit and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Right to Public Services Act, 2017.

Short title,
extent and
commencement.

(2) It extends to the whole of the India, except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) "Appellate Authority" means an authority including one belonging to the local self-Government, notified as such under section 4;

(b) "Designated Public Authority" means an authority or body including one belonging to the local self-Government and Organizations, owned, controlled or substantially financed by the Central Government and notified as such for providing the service under section 4;

(c) "eligible person" means a person who is eligible for receiving the services notified by the Central Government;

(d) "prescribed" means as prescribed by rules made under this Act;

(e) "Reviewing Authority" means an authority appointed or designated including one belonging to the local self-Government notified as Reviewing Authority under section 4;

(f) "right to public service" means right to obtain the services notified by the Central Government under section 3, from time to time, within the stipulated time limit;

(g) "service" means any service notified under section 4; and

(h) "stipulated time limit" means maximum time to provide the service by the Designated Public Authority or to decide the appeal by the Appellate Authority and Reviewing Authority as notified under section 4.

Right to obtain
Public
Services.

3. Every eligible person shall have the right to obtain public services to be notified by the Central Government, from time to time, in accordance with the provisions of this Act.

Notification of
Authorities.

4. The Central Government shall, from time to time, notify in the Official Gazette, the services to be rendered, provisions for fast track Service delivery, Designated Public Authority, Appellate Authority, Reviewing Authority for the purposes of this Act.

Right to obtain
Public service
within
stipulated time
limit.

5. (1) The Designated Public Authority shall provide the service notified under section 4, to the person eligible to obtain the service, within the stipulated time limit.

(2) The stipulated time limit, if not prescribed otherwise in the notification issued under section 3, shall commence from the date when required application for notified service is submitted to the Designated Public Authority or to a person subordinate to him authorized to receive the application, which shall be duly acknowledged.

Application.

6. (1) Any application being filed for obtaining services notified under the Act shall be treated as application under the Act.

(2) The Designated Public Authority on receipt of an application shall, within the stipulated time limit, provide service or reject the application:

Provided that in case of rejection of application the Designated Public Authority shall record the reasons in writing and intimate the same to the applicant.

Appeal.

7. (1) Any person, whose application is rejected under sub-section (2) of section 6 or who is not provided the service within the stipulated time limit, may file an appeal to the Appellate Authority within thirty days from the date of rejection of application or the expiry of the stipulated time limit, as the case may be.

(2) Every appeal filed under sub-section (1) shall be duly acknowledged by the Appellate Authority by providing the Appellant signed receipt of the same:

Provided that the Appellate Authority may admit the appeal after the expiry of the period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) The Appellate Authority may order the Designated Public Authority to provide the service within the specified period or may reject the appeal, as the case may be.

(4) The Appellate Authority may, along with the order to provide service, impose penalty according to the provisions of section 8.

(5) The Designated Public Authority or the aggrieved applicant by any order of the Appellate Authority, may make a second appeal within sixty days from the date of that order to the Reviewing Authority, who shall dispose the appeal according to the prescribed procedure:

Provided that the Reviewing Authority may entertain the second appeal after the expiry of sixty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(6) In case of non-compliance of the order by Designated Public Authority for providing the service under sub-section (3), the aggrieved applicant may submit an application directly to the Reviewing Authority, which shall be disposed of in the manner as may be prescribed for second appeal.

(7) The Appellate Authority and Reviewing Authority shall while deciding an appeal under this section, have the same powers as are vested in civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of:—

- (a) requiring the production and inspection of documents;
- (b) issuing summons for hearing to the designated public servant and appellant; and
- (c) any other matter such as may be prescribed.

(8) In every appeal, the onus to prove that a delay or denial of service was justified shall be on the Designated Public Servant or the Appellate Authority as the case may be who delayed or denied the service.

8. (1) When the Appellate Authority is of the opinion that the Designated Public Authority has failed to provide service without sufficient and reasonable cause, then he may impose a penalty which shall not be less than five hundred rupees but which may extend upto five thousand rupees.

Penalty.

(2) When the Appellate Authority is of the opinion that the Designated Public Authority having caused delay in providing the service, then he may impose a penalty at the rate of two hundred fifty rupees per day upto a maximum of five thousand rupees on the Designated Public Authority.

(3) When the Reviewing Authority is of the opinion that the Appellate Authority has failed to dispose of the appeal within the stipulated time limit without sufficient and reasonable cause, then he may impose a penalty of not less than five hundred rupees which may extend upto five thousand rupees on the Appellate Authority:

Provided that the Appellate Authority shall be given a reasonable opportunity of being heard before any penalty is imposed on him.

(4) Every penalty imposed under this Act shall be charged as per the rules framed under this Act, from time to time:

Provided the penalty imposed under this Act shall be in addition to that prescribed in any other Act for the time being in force.

9. The non-compliance of the orders of the Appellate Authority, unless pending in second appeal or modified by the Reviewing Authority, or of the orders of the Reviewing Authority, as the case may be, shall amount to misconduct and the Designated Public Authority shall be liable for actions under relevant provisions, including those that have been laid down for disciplinary action.

Penalty on Non-compliance.

10. No Civil Court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal as specified under this Act.

Bar of Civil Court.

11. Notwithstanding anything contained in any other Act, for the time being in force, the Government of India, may send applications of non-compliance directly to the Appellate Authority for taking further actions as per the Act.

Application for non-compliance to the Appellate Authority.

12. No suit, prosecution or their legal proceeding shall lie against any person for anything which is done in good faith or intended to be done under this Act or any rule made thereunder.

Protection of action taken in good faith.

Overriding
effect of the
Act.

13. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act in relation to the services notified under this Act and its implementation.

Power to
remove
difficulties.

14. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Power to make
rules.

15. (1) The Central Government may, by notification, make rules to carry out the purpose of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Right to Public Service (RTPS) confers right on every individual citizen to time bound delivery of services and redressal of grievances. The RTPS legislations are meant to reduce corruption among the Government Officials and to increase transparency and public accountability. The States in India have acted as pioneers in this regard. The right to public service legislations have been introduced in various States following the legislations of the Madhya Pradesh Government in the year 2010. By now, more than twenty States have introduced such Acts.

These Acts have enabled the citizens to access Government services and Government to provide the required services seamlessly. It has been observed that the RTPS Acts have helped the States in tackling corruption, inefficiency and lack of transparency in the conduct of Government Affairs. The RTPS strengthens the citizens of India, thereby strengthening their belief in Government institutions.

The Bill, therefore, seeks to provide for the delivery of notified public services of the Government of India within the stipulated time limit.

Hence this Bill.

NEW DELHI;
November 28, 2017.

NINONG ERING

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 249 OF 2017

A Bill to provide certain facilities to female employees during menstruation at work place and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth year of the Republic of India as follows:—

1. (1) This Act may be called the Menstruation Benefits Act, 2017.

Short title and
commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Application of
the Act.

2. It applies, in the first instances,—

(a) to every establishment being a factory, mine or plantation including any such establishment belonging to Government and to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

(b) to every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months:

Provided that the State Government may, with the approval of the Central Government, after giving not less than month's notice of its intention of so doing, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall apply also to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise;

(c) to every men who is self-employed or working in the unorganized sector or in establishments where less than ten persons are employed.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means, in relation to an establishment being a mine, or an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances, the Central Government and in relation to any other establishment, the State Government;

(b) "establishment" means—

(i) a factory;

(ii) a mine;

(iii) a plantation;

(iv) an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

(v) a shop or establishment; or

(vi) an establishment to which the provisions of this Act have been declared under section 2 to be applicable;

(c) "menstruation benefit" means the benefits referred to in section 4;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "wages" means all remuneration paid or payable in cash to woman, if the terms of the contract of employment, express or implied, were fulfilled and includes—

(1) such cash allowances (including dearness allowance and house rent allowance) as a woman is for the time being entitled to;

(2) incentive bonus woman; and

(3) the money value of the concessional supply of foodgrains and other articles, but does not include—

(i) any bonus other than incentive bonus;

(ii) over-time earnings and any deduction or payment made on account of fines;

(iii) any contribution paid or payable by the employer to any pension fund or provident fund of for the benefit of the woman under any law for the time being in force; and

(iv) any gratuity payable on the termination of service; and

(f) "woman" means a woman employed, whether directly or through any agency, for wages in any establishment.

4. Every woman—

Right to
Menstrual
Leave.

(a) who is working as an employee in any establishment registered with the appropriate Government; or

(b) who is a student in or above Class VIII in any school recognized by the appropriate Government,

shall be entitled to paid leave or leave from the school, as the case may be, for four days during her menstruation:

Provided that if a woman employee undergoing menstruation opts to work instead of taking leave, she shall be paid overtime allowance at such rate and in such manner as may be prescribed.

5. Every woman employee working in the establishment during her menstruation shall be entitled to thirty minutes of rest period twice a day for not more than four days during menstruation in a month.

Regulation of
working hours
during
menstruation.

6. Every establishment having fifty or more employees shall have the facility of creche within such distance as may be prescribed, either separately or along with common facilities.

Establishment
to have creche
facility.

7. Every establishment shall intimate in writing and electronically to every woman at the time of her initial appointment regarding every benefit available under this Act.

Duty of
establishment
to inform the
benefits.

8. Every woman shall have a right to self perception of her menstruation, in accordance with the provisions of this Act.

Recognition of
Menstruation.

9. Notwithstanding anything contained in this Act, the Internal Complaints Committee constituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 or similar Grievance Redressal Committees constituted within the establishment shall address the grievance pertaining to menstrual leave within the establishment.

Redressal.

10. Whoever,—

Punishment.

(a) denies leave to a woman during her menstruation; or

(b) obstructs a female employee from entitlement of menstrual leave; or

(c) denies or discontinues prescribed rest and recreation facilities to the women during her menstruation,

shall be punishable with imprisonment for a term which shall not be less than one month but which may extend upto three months and with fine which shall not be less than ten thousand but which may extend to fifty thousand Rupees.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

There have been frequent demands across India to further amend the Labour Laws in order to provide better working facilities to the female employees. The menstruation leave movement has gained momentum across the nation and there has been intense demand to entitle women with paid leave during menstruation. Besides, there have been demands to provide intermediate breaks during menstruation in the working days and facilities for rest at the workplace in India. A lot of women, media and civil society organizations have begun addressing the difficulties associated with menstruation and demanding paid leave. The success of several campaigns and petitions launched for menstrual leave asserts that the movement is gaining fast momentum in India.

History of paid menstrual leave dates back to a period as early as the World War II. Countries like Japan, South Korea, Indonesia and Taiwan have been far sighted regarding the issue and are entitling female employees with menstrual leave. Italy has also proposed a Bill on paid menstrual leave. Historically, Indian societies have been marked with the feature of vibrant liberalism. A girls school in the State of Kerala had granted its students menstrual leave as early as 1912. This financial year, a couple of companies in India have individually introduced the policy of paid menstrual leave for their female employees.

According to a research conducted at University College London, and published earlier this year revealed that period pain can be “as bad as having a heart attack”. Given the biological complexity of females and the intense pain they have to suffer, they shall have the right to be entitled with leave during menstruation. In addition, women are least productive in terms of job during the menstruation, specially on the first and the second day of the menstrual cycle due to unmanageable discomforts. Thus, it may not be much fruitful to the employers in terms of production. Therefore, with both the perspectives of the female employees as well as the employers, menstrual leave is desirable.

The Bill, therefore, seeks to entitle female employees with paid menstrual leave for two days. It also seeks to provide better facilities for rest at the workplace during menstruation.

Hence this Bill.

NEW DELHI;
November 27, 2017.

NINONG ERING

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the appropriate Government to make rules for carrying out the provisions of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 22 OF 2018

A Bill to amend the Clinical Establishments (Registration and Regulation) Act, 2010.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Clinical Establishments (Registration and Regulation) Amendment Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

23 of 2010.

2. In section 5 of the Clinical Establishments (Registration and Regulation) Act, 2010 (hereinafter referred to as the principal Act), after clause (e), the following clause shall be inserted, namely:—

Amendment of section 5.

"(ea) setup and maintain an online portal for the clinical establishments to update the records and real time data;"

3. (1) In section 12 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

Amendment of section 12.

"(3) The clinical establishments whose annual revenue exceeds rupees fifty lakh shall update the real-time position of occupancy of the beds in their respective premises on the online portal setup by the National council under clause (ea) of section 5.

(4) The clinical establishments whose annual revenue exceeds rupees fifty lakh shall publish an annual report stating the monthly implementation progress of clause (b) of section 13B."

4. After section 13 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 13A and 13B.

"13A. (1) The National Council shall, in consultation with State Councils, meet quarterly to determine the range of rates for each type of medical procedures and services provided by the clinical establishments.

Rate determination for Clinical Establishment.

(2) The rates for each type of medical procedures and services in different geographical locations (like villages, town, and metro) shall be decided considering the economic status of the people and on the basis of the cost of infrastructure, equipments, consumables and skilled human resources.

(3) The rates under sub-section (2) may be revised as per annual market inflation.

13B. The district registering authority or any other body authorized by the Central Government shall visit, call for information and inspect the clinical establishments on a quarterly basis to ensure that—

Registering Authority to visit, call for information and inspect the clinical establishments.

(a) clinical establishments are open to any person without any discrimination on the ground of religion, race, caste, sex, place of birth, language or any of them;

(b) clinical establishments with an annual revenue exceeding rupees fifty lakh reserve ten per cent. of the total number of operational beds for medical examination and treatment free of charge in each department for the poor sections, whose annual income is less than rupees twenty five thousand; and

(c) clinical establishments charge rates of medical procedures and services as determined under sub-section (2) of section 13A."

STATEMENT OF OBJECTS AND REASONS

Article 21 of the Constitution states that no person shall be deprived of his life or personal liberty except according to procedure established by law. However, providing rudimentary healthcare is equivalent to putting the life of an individual in danger just because he is economically incapable to afford decent healthcare. It is prerogative of the Government to ensure that nobody under any circumstance, whatsoever, shall be deprived of his/her life and provision of good healthcare is one of the prominent ways to achieve this.

The Honourable Supreme Court, in the landmark judgment of *Consumer Education and Research vs. Union of India*, 1995 held that the right to health and medical care is a fundamental right and it is the obligation of the State not only to provide emergency medical services but also to ensure the creation of conditions necessary for good health.

Furthermore, Part IV of the Indian Constitution, the Directive Principle of State Policy lays down the duties of the State which includes provision of good healthcare. Article 39(e) states that the health and strength of workers, men, women, and children are not abused. Article 41 imposes duty on State to public assistance for those who are sick and disable. Article 42 states that it's a primary responsibility of the State to protect the health of infant and mother by maternity relief. Article 47 spells out the duty of the State to raise the level of nutrition, the standard of living and public health of its people as its primary responsibility.

However, it is observed that the Government despite taking various initiatives has not been able to provide a comprehensive medical and health facilities which all the citizens are entitled to. After the adoption of neo-liberal policy framework from 1990 onwards, corporate hospitals rose at a startling rate. Thus, it has become difficult for an ordinary family of our country to be able to access good healthcare. As per the Medical Council of India (MCI), since independence the number of private medical colleges in India has grown at a startling rate with a pace much greater than that of the Government medical Colleges.

With this sharp rise, these private clinical establishments started building up cartels, thereby charging exuberant prices for medical services. There have been plenty of examples in the past, whereby poor families had to go through grave mental and monetary exploitation by these clinical establishments. Hence, these private hospitals need to be regulated by a statutory framework to stop the exploitation of the vulnerable sections of the society.

The Bill, therefore, seeks to amend the Clinical Establishments (Registration and Regulation) Act, 2010 with view to —

(a) determine the range of rates for each type of medical procedures and services provided by the clinical establishments; and

(b) reserve ten per cent of the total number of operational beds for medical examination and treatment in clinical establishments for the poor sections of the society.

Hence, this Bill.

NEW DELHI;
November 30, 2017.

DUSHYANT CHAUTALA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that National Council shall setup and maintain an online portal for the clinical establishments to update the records and real time data. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring annual expenditure of rupees fifty crore from the Consolidated Fund of India.

A non-recurring expenditure of about rupees fifty crore is also likely to be involved.

BILL NO. 21 OF 2018

A Bill further to amend the Right to Information Act, 2005

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Right to Information (Amendment) Act, 2018.

(2) It shall come into force on such date as Central Government may, by notification in the Official Gazette, appoint.

Amendment of
section 4.

2. In section 4 of the Right to Information Act, 2005 (hereinafter referred to as the 22 of 2005. principle Act), in sub-section (1),—

(a) for the words "Every public authority", the words "Every public authority through Central Public Information Officer or State Public Information Officer, as the case may be," shall be substituted; and

(b) in clause (b), after sub-clause (xvii), in the long line, for the words "every year", the words "every month" shall be substituted.

3. In section 18 of the principal Act, in sub-section (1), after clause (f), the following clause shall be inserted, namely:—

Amendment of
section 18.

"(g) in respect of non-compliance and updating of publications as mentioned under section 4."

STATEMENT OF OBJECTS AND REASONS

The Right to Information Act, 2005 (RTI Act) is one of the highly-acclaimed welfare legislations. The Act seeks to "empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense". Section 4, aims to provide a structure wherein maximum information should be provided "*suo motu*" to the public at regular intervals through various means of communications, including internet, so that the public could resort to the use of this Act to obtain information.

All this was supposed to be done within one hundred and twenty days of the enactment of the RTI Act in 2005 with continued updates. However, the same was not executed.

In the current scheme of the RTI Act, section 4 sets out obligations of public authority as an institution. There is no provision to fix responsibility on any officer at the level of public authority in case of non-compliance. In the case of Delhi Development Authority Vs. Central Information Commission & Others, W.P. No. 12714/2009 Hon'ble Delhi High Court, Court observed: "Section 4 merely sets out the obligations of the public authorities. It doesn't provide the machinery to enforce the implementation of these obligations".

Even after twelve years, there has been very little progress on the proactive disclosure front. It is observed that once the information is disclosed by the public authority, the same is not updated for years. This makes the objectives of the Act defeated.

The Bill, therefore, seeks to amend the RTI Act, 2005 with a view to fix responsibility on the concerned Public Information Officer to ensure that the disclosures mentioned in section 4 of the Act are complied with and updated every month. Further, non-compliance of such disclosure shall give citizens the right to register complaint before Central Information Commission or concerned State Information Commission under section 18 of the Act against such information officer.

Hence this Bill.

NEW DELHI;

DUSHYANT CHAUTALA

30 November, 2017.

BILL NO. 16 OF 2018

A Bill to provide for extension of Central Government Health Scheme facilities to every district headquarter in the country and linking the Central Government Health Scheme card to Aadhaar number and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Extension of Central Government Health Scheme to Every District Headquarters Bill, 2018. Short title.

2. In this Act, unless the context otherwise requires,— Definitions.

(a) “beneficiary” shall include the beneficiaries under the Central Government Health Scheme (CGHS) as notified by Ministry of Health *vide* O.M. dated 1.5.1954 and as amended, from time to time;

(b) “CGHS” shall mean the Central Government Health Scheme as notified by Ministry of Health *vide* O.M. dated 1.5.1954 and as amended, from time to time for the healthcare benefits of beneficiaries; and

(c) "prescribed" means prescribed by rules made under this Act.

Extension of
CGHS to
district
headquarters.

3. It shall be the responsibility of the Central Government to extend the benefits of the CGHS to all the district headquarters in the country in such manner as may be prescribed.

Central
Government to
empanel
Private
Hospitals or
Diagnostic
Centres.

4. The Central Government shall, in absence of any Government Hospital or CGHS Wellness Centre, may empanel such number of Private hospitals or diagnostic centres in the district headquarter, as it may deem appropriate for carrying out the purposes of this Act.

Beneficiary to
avail CGHS
facilities
irrespective of
his place of
residence.

5. Every beneficiary irrespective of his place of permanent residence shall be entitled to avail the CGHS facilities in any of the CGHS wellness centres as per his entitlement and rules prescribed in this behalf by the Central Government.

CGHS card to
be linked with
the Aadhaar.

6. (1) For the purpose of availing medical facilities and reimbursement claims under this Act, the CGHS Card of the beneficiaries shall be linked with the Aadhaar number as defined under the (Aadhaar Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 in such manner as may be prescribed.

(2) The reimbursement claims shall be made to the bank account of the beneficiary or in case of his death or being in comatose state to the bank account of any dependent beneficiary with the consent of all other dependent beneficiaries in such manner as may be prescribed.

Power to make
rules.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Central Government Health Scheme (CGHS) is an ideal welfare measure available to all Central Government servants, their dependents and retired personnel, etc. in CGHS covered cities. In fact the scheme is most beneficial when one is advanced in age and ailing. As of now CGHS clinics wellness centre are functioning only in the capital city of most States. Non-availability of CGHS clinics or branch offices in every district makes it impossible for beneficiaries to avail the facility. A retired or sick person cannot travel across the State in his sick condition to avail the medical facility or to claim reimbursement. His health condition may not permit such travel. Even after illness the person may not be able to afford the travel to present his bills and seek reimbursement.

It is also necessary to link CGHS cards to Aadhaar number so that beneficiaries may be assured of treatment according to their eligibility and reimbursement to their bank accounts when treatment becomes essential through private hospitals.

Hence this Bill.

NEW DELHI;
November 30, 2017.

MULLAPPALLY RAMACHANDRAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for extension of the benefits of CGHS to all the district headquarters in the country. Clause 4 provides that the Central Government shall, in absence of any Government Hospital or CGHS Wellness Centre, may empanel such number of Private hospitals or diagnostic centres in the district headquarter, as may be necessary, for carrying out the purposes of this Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees one thousand crore will be involved per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to the matters of detail only the delegation of legislative power is of a normal character.

BILL NO. 24 OF 2018

A Bill to provide for protection of plants in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Protection of Plants Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commencement.

Definitions.

2. In this Act unless the context otherwise requires,—

(a) "Collector" means the chief officer in charge of the revenue administration of a district or any other officer not below the rank of a Deputy Collector as may be appointed by the State Government in this behalf;

(b) "commencement of this Act", in relation to—

(i) a State, means commencement of this Act in that State;

(ii) any provision of this Act, means the commencement of that provision in the concerned State;

(c) "director" means the person appointed as Director of Plant Life Preservation under clause (a) of sub-section (1) of section 3;

(d) "felling", with its grammatical variations and cognate expressions, includes,—

(i) killing, cutting or mutilating of any plant and every attempt to do so;

(ii) injuring or destroying or removing any part of the plants;

(iii) damaging the seeds, seedlings, saplings, branches, roots, leaves, bark or other part of the plant.

(e) "garden" includes any place where plants are grown and maintained on land, water, terraces, pots or other containers or hanging from any supports, or in green houses whether in the form of formal and planned gardens or merely growing on space available;

(f) "Government property" means any property belonging to the Government whether Central or State or to any Government or Semi-Government Department;

(g) "habitat" includes land, water or vegetation which is the natural home of any plant;

(h) "land" includes soil, canals, creeks, ponds and other water channels, reservoirs, rivers, streams and lakes, whether artificial or natural, marshes and wetlands and includes boulders, rocks, green houses, terraces and pots where plants are growing;

(i) "license" means a license granted under this Act;

(j) "National Board" means the National Board for Plant Life Preservation constituted under section 5;

(k) "national park" means an area declared under this Act or to be declared as a National Park;

(l) "notification" means a notification published in the Official Gazette;

(m) "plants" includes trees, shrubs, creepers and all types of leafy plants that grow on land, in water or in earth's atmosphere including plant article their saplings, seedlings, seeds and other embryo form, if any;

(n) "plant article" means an article made from any part of a plant including root, leaf, stem, flower, fruit, gum, seed, bark and any object in which the whole or any part of such plant has been used;

(o) "permit" means a permit granted under this Act or any rule made thereunder;

(p) "person" means any individual or legal person and includes a firm;

(q) "prescribed" means prescribed by rules made under this Act;

(r) "State Board" means a State Board for Plant Life Preservation constituted under section 7;

(s) "State Government" in relation to a Union territory, means the Administrator of that Union territory appointed by the President under article 239 of the Constitution;

3. (1) The Central Government may, for the purposes of this Act, appoint,—

Appointment of Director and other officers.

(a) a Director of Plant Life Preservation; and

(b) such other officers and employees as may be necessary.

(2) In the performance of his duties and exercise of his powers by or under this Act, the Director shall be subject to such general or special directions, as the Central Government may, from time to time, give.

(3) The officers and other employees appointed under this section shall be required to assist the Director.

4. (1) The Director may, with the previous approval of the Central Government, by order in writing, delegate all or any of his powers and duties under this Act to any officer subordinate to him subject to such conditions, if any, as may be specified in the order.

Power to delegate.

(2) Subject to any general or special direction given or condition imposed by the Director, any person, authorized by the Director to exercise any powers, may exercise those powers in the same manner and to the same effect as if they had conferred on that person directly by this Act and not by way of delegation.

5. (1) The Central Government shall, within three months from the date of commencement of this Act, constitute the National Board for Plant Life Preservation consisting of —

Constitution of the National Board for Plant Life Preservation.

(a) the Union Minister of Agriculture and Farmers Welfare as Chairperson;

(b) the Union Minister of Environment, Forests and Climate Change as Vice-Chairperson;

(c) three Members of parliament of whom two shall be from the House of the People and one from the Council of States—members;

(d) Member, Planning Commission in-charge of Forests and Wild Life—members;

(e) five persons to represent non-Governmental organisations to be nominated by the Central Government—members;

(f) ten persons to be nominated by the Central Government amongst eminent conservationists, ecologists and environmentalists—members;

(g) the Secretaries to the Government of India, in-charge of the Ministry or Department of the Central Government dealing with Agriculture, Forests and Wild Life—members;

(h) the Secretary to the Government of India, in-charge of the Department of Expenditure, Ministry of Finance—member;

(i) the Secretary to the Government of India, Ministry of Tribal Welfare—member;

(j) the Director-General of Forests in the Ministry or Department of the Central Government dealing with Forests and Wild Life—member;

(k) the Director-General, Indian Council for Forestry Research and Education, Dehradun—member;

(l) the Director, Botanical Survey of India—member;

(m) the Director, National Institute of Oceanography—member;

(n) one representative each from ten States and Union territories by rotation, to be nominated by the Central Government—member; and

(o) the Director of Agriculture Research who shall be the Member—Secretary of the National Board.

(2) The term of office of the Members other than those who are members *ex-officio*, the manner of filling vacancies referred to in clauses (e), (f) and (v) of sub-section (1), and the procedure to be followed in the discharge of their functions by the members of the National Board shall be such, as may be prescribed.

(3) The members (except members *ex-officio*) shall be entitled to receive such allowances in respect of expenses incurred in the performance of their duties as may be prescribed.

(4) Notwithstanding anything contained in any other law for the time being in force, the office of a member of the National Board shall not be deemed to be an office of profit.

Functions of
the National
Board.

6. (1) It shall be the duty of the National Board to promote the preservation and development of plant life and forests, gardens, farms, parks or any place where plant life exists, by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provision, the measures referred to therein may provide for—

(a) framing policies and advising the Central Government and the State Governments on the ways and means of promoting plant life preservation and effectively controlling, felling and illegal trade of plants and their products;

(b) making recommendations on the setting up of the management of national parks, sanctuaries and other protected areas and on matters relating to restriction of activities in those areas;

(c) carrying out or causing to be carried out impact assessment of various projects and activities on plant life or its habitat;

(d) reviewing from time to time, the progress in the field of Plant life preservation in the country and suggesting measures for improvement life in the country;

(e) preparing and publishing a status report at least once in two years on Plant life in the country.

Constitution of
State Board for
Plant Life
Preservation.

7. (1) The State Government shall, within a period of six months from the date of commencement of this Act, constitute a State Board for Plant Life Preservation consisting of the following members, namely:—

(a) the Chief Minister of the State and in case of the Union territory, either Chief Minister or Administrator, as the case may be—Chairperson;

(b) the Minister of Agriculture and Minister of Forests—Vice Chairpersons;

(c) three members of the State Legislature or in the case of a Union territory with Legislature, two members of the Legislative Assembly of that Union territory—members;

(d) three person to represent non-governmental organisations dealing with plant life to be nominated by the State Government—members;

(e) ten persons to be nominated by the State Government from amongst eminent conservationists, ecologists and environmentalists including at least two representatives of the Scheduled Tribes and two agriculturists—members;

(f) the Secretary to the State Government or the Government of the Union territory, as the case may be, in-charge Agriculture—member;

(g) the Secretary to the State Government, Department of Tribal Welfare—member;

(h) the Secretary of Health—member;

(i) an officer of the State Police Department not below the rank of Inspector—General-member;

(j) a representative of the Botanical Survey of India—member;

(2) The term of office of the members other than those who are members *ex-officio* and the manner of filling vacancies referred to in clauses (d) and (e) of sub-section (1) and procedure to be followed shall be such, as may be prescribed.

(3) The member (except members *ex-officio*) shall be entitled to receive such allowances in respect of expenses incurred in the performance of their duties as may be prescribed.

8. (1) The Board shall meet atleast twice a year at such place as the State Government may direct.

Procedure to be followed by the Board.

(2) The Board shall regulate its own procedure (including the quorum).

(3) No act or proceeding of the Board shall be invalid merely by reason of the existence of any vacancy therein or any defect in the constitution thereof or any irregularity in the procedure of the Board not affecting the merits of the case.

9. It shall be the duty of the State Board to advise the State Government,—

Duties of State Board.

(a) in the selection and management of species of plants to be declared as protected;

(b) in formulation of the policy for protection and Preservation of the plant life and specified plants;

(c) in any matter relating to the amendment of any Schedule;

(d) in relation to the measures to be taken for harmonizing the needs of the tribal people and farmers and others depending on farms and plants for their livelihood, with the protection and Preservation of plant life; and

(e) in any other matter connected with the protection of plant life which may be referred to it by the State Government.

10. No person shall fell, cut or maim any plant except as provided under rules made under this Act.

Prohibition of felling plants.

11. (1) No person shall cultivate specified plants, which experts have declared to be dangerous to human life either by consumption or use or by mere proximity, except under and in accordance with a license granted by the District Collector or any other officer authorized by the State Government in this behalf.

Cultivation of specified plants without license prohibited.

(2) The Central Government shall not permit the cultivation of specified plants declared by experts to be dangerous to the eco-system or to human life.

(3) Any person, establishment or company that finds plant in his property shall report the same to the District Collector.

(4) The District Collector shall maintain a record of the plants identified and/or reported to him under sub-section (2).

Complaints to be heard and decided by District Magistrate.

12. (1) Every complaint for violation of provisions of sections 10 and 11 shall be made to the District Magistrate in such manner as may be prescribed.

(2) The District Magistrate shall upon receipt of complaint made under sub-section (1) dispose of the complaint in such manner as may be prescribed.

Offences punishable with fine.

13. (1) The District Magistrate shall, upon hearing of complaint made under sub-section (1) of section 12 found the person against whom the complaint is made guilty of offence punishable under this Act, impose a fine which may extend upto rupees ten thousand:

Provided that if the person against whom the complaint is made is a Company or establishment the amount of fine may extend upto rupees twenty five thousand."

Power to make rules.

14. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The protection of plants on the same lines as laws that protect rare animal and bird species is the need of the hour. Protection of commercial and medicinal plants many of which are being felled and destroyed in the name of urbanization, construction and industrialization requires immediate attention. Plants, like humans and animals, are living things. It is plants that provide man and animals essential food, medicines and shelter, etc. It is, therefore, absolutely essential that they be protected.

The survival of mankind depends on the survival of the plants and trees on earth. The plants provide not only food, medicine, shade, spices and cover but above all it is the plants that provide oxygen which is essential for life. Without plants, the environment and human life on this earth cannot exist. Their presence is inevitable for clean air, food and water in this world. Plants also contribute to our economy. People of many countries rely on plant products for their livelihood and income. Plants-people relationships is so much interlinked that we need them to survive. Hence the need is to protect plants from wanton destruction and felling.

The Bill, therefore, seeks to provide for—

(a) constitution of a National Board and State Boards for Plant Life Preservation to frame policies and advise the Central Government and the State Governments on the ways and means of promoting plant life preservation and effectively controlling felling and illegal trade of plants and their products;

(b) prohibit felling of plants;

(c) prohibit cultivation of specified plants without license.

Hence this Bill.

NEW DELHI;
December 4, 2017.

MULLAPPALLY RAMACHANDRAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the appointment of a Director of Plant Life Preservation and other officers and employees. Clause 5 provides for the constitution of the National Board for Plants Life Preservation to frame policy promoting plant life preservation and effectively controlling felling and illegal trade of plants and their products. It also provides for appointment of representatives of non-governmental organizations, etc. to the National Board. Clause 7 provides for the constitution of the State Board for Plant Life Preservation. The expenditure relating to States shall be borne from the Consolidated Fund of the State concerned. Whereas the expenditure in respect of the Union territory shall be borne from the Consolidated Fund of India. The Bill, therefore, if enacted, will involve recurring expenditure of rupees three crore per annum from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees five crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Director of the National Board for Plants Life to delegate all or any of his powers and duties under this Act to any officer subordinate to him subject to such conditions, if any, as may be specified in the order. Clause 10 provides for rules for making prohibition on felling plants. Clause 14 empowers the Central Government to make rules for carrying out the purposes of this Act. As the delegation of powers shall relate to matters of details only, the delegation of legislative power is of normal character.

BILL NO. 14 OF 2018

A Bill to provide for prevention of begging and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Begging Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

Short title,
extent and
commence-
ment.

Definitions.

(b) "begger" means a person who indulges in begging;

(c) "begging" means:—

(i) soliciting alms in a public place, including railway stations, bus stops, road sides and public transport, by invoking compassion; and

(ii) entering in any private premises for the purpose of soliciting or receiving alms;

(d) "fund" means Beggars' Welfare Fund established under section 6; and

(e) "rehabilitation centre" means a centre established under this Act where any person taken into custody on the ground of begging shall be kept till the time he is rehabilitated.

Abolition of begging.

3. Begging by any person in any manner is hereby abolished.

Punishment for forced begging.

4. Whoever forces or encourages any person, including a child in his care, custody or charge, for begging or whoever uses any person as an exhibit for the purpose of begging, shall, in the first instance, be warned of indulging in such activities and if he indulges in spite of the warning be punished with a fine of rupees five thousand.

Arrest of persons found begging, etc.

5. (1) Any person found begging shall be arrested by the Police.

(2) Any person so arrested shall be sent to a rehabilitation centre, to be established in every district by the appropriate Government, wherein such person shall be provided with facilities for his rehabilitation in such manner as may be prescribed.

Beggars' Welfare Fund.

6. (1) The Central Government shall constitute a Fund to be called the Beggars' Welfare Fund for the welfare of the beggars.

(2) The fund shall be utilised by the Central Government as and when required for the welfare and rehabilitation of beggars.

Formulation of schemes and plans for beggars, etc.

7. (1) The appropriate Government shall formulate such schemes, work out such plans, including plans for provision of education, and create suitable infrastructure in every district so as to enable beggars to take up suitable jobs for earning their livelihood.

(2) The appropriate Government shall set up destitute homes for providing food, shelter and protection, to the old, infirm, helpless and destitute persons so as to discourage them from indulging in begging.

Power to make rules.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions, aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Despite all efforts made and welfare measures taken by the Central Government and the State Governments, the practice of begging continues unabated all over the country, especially in the metropolitan cities and urban areas. There are organised gangs who exploit innocent children and force them into begging not for the sustenance of these boys and girls but for gathering alms for the gang leaders and organizers. Some people kidnap children and force them to go for begging and collect huge amount of money.

The number of beggars in the country has increased manifold. As per an estimate the number is somewhere around fifty lakhs.

While, the old and infirm beggars can be sent to destitute homes, the other beggars should be given education and training so that they can get gainful employment.

Therefore, it is high time that a law for prevention of begging be enacted.

Hence this Bill.

NEW DELHI;
January 1, 2018.

SUNIL KUMAR SINGH

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for establishment of "rehabilitation centres" in every district by the appropriate Government. Clause 6 provides for setting up of Beggars' Welfare Fund. Clause 7 provides for formulation of schemes and creating suitable infrastructure by appropriate Government in every district so as to enable beggars to take up suitable jobs. It further provides for setting up of destitute homes by the appropriate Government. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees five hundred crore per annum.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of normal character.

BILL NO. 12 OF 2018

A Bill to provide for the gender specific needs of women farmers, to protect their legitimate needs and entitlements and to empower them with rights over agricultural land, water resources and other related rights and for other functions relating thereto and for matters connected therewith.

WHEREAS women constitute more than fifty per cent of Indian farmers and about sixty per cent of the workforce in the farming sector; and in view of the increasing feminisation of agriculture as a result of out-migration of men, entitlements for women farmers are essential for the future growth and health of agriculture, as well as protection of food security in an era of climate change;

AND WHEREAS it is necessary to recognize and protect the gender specific needs and rights of the women by empowering and entitling them with enforceable rights over agricultural land, water resources, credit and other related rights;

AND WHEREAS the Married Women's Property Act, 1874 recognised the wages, earnings and other property acquired by a married woman in any employment, occupation or trade carried on by her in her individual capacity as her separate property; the Hindu Succession (Amendment) Act, 2005 entitled the daughter of a Joint Hindu family governed by the Mitakshara law, to become a coparcener in her own right in the same manner as the son and clothes her with the same rights and liabilities in the coparcenary property as she would have had if she had been a son; the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 recognised the rights of forest-dwelling communities to the forest land and other forest resources;

AND WHEREAS the Government of India has recognized the special needs of women farmers by initiating a "Mahila Kisan Shashaktikaran Pariyojana" programme under the National Rural Livelihood Mission;

AND WHEREAS India is a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979 which calls for elimination of all forms of discrimination of women by ensuring equal access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

AND WHEREAS the Fourth World Conference on Women in September, 1995, in which India participated, called for legislative and administrative reforms to give women equal rights with men to economic resources, including access to ownership and control over land and other properties, credit inheritance, natural resources, and appropriate new technology, etc. as embodied in the Beijing Declaration and Platform for Action;

AND WHEREAS it is considered necessary to implement the decisions in so far as they relate to the women farmers' entitlements under Article 253 of the Constitution of India.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Women Farmers' Entitlements Act, 2018.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires—

(a) "agriculture" means and includes, all activities related to cultivation of crops, animal husbandary, poultry, livestock rearing, apiculture, gardening, fishing, aquaculture, sericulture, vermiculture, horticulture, floriculture, agro-forestry, or any other farming activity carried out through self-employment, tenorial cultivation, share cropping, or other types of cultivation including shifting cultivation, collection, use and sale of minor or non-timber forest produce by virtue of ownership rights or usufructory rights;

(b) "agricultural activity" means any activity related to agriculture;

(c) "farmer" means any person who is, individually or jointly with any other person,—

(i) engaged in agriculture directly or through the supervision of others; or

(ii) contributes to conservation or preservation of agriculture related varieties or seeds or breeds of farm animals; or

(iii) contributes through traditional knowledge to any type of innovation, conservation or to propagation of new agricultural varieties or to agricultural cultivation methods or practices or to the practice of crop-livestock integrated farming system; or

(iv) promotes agro-processing, and value-addition to primary products.

Explanation.—The term "farmer" will include, but not limited to, agriculture operational holders, landless cultivators, agricultural labourers, planting labourers, pastoralists, sharecroppers and tenants. The term shall not include corporate entities operated by or involving farmers. In case of landless farmers migrating or moving from one State to another, if anyone stays in a State for at least six months, such person may be considered as a farmer in that particular State.

(d) "guidelines" means the guidelines framed by the Authority under this Act with the previous approval of the Central Government by notification in the Official Gazette.

(e) "land" means any land or water body utilised for the purpose of agriculture.

(f) "woman farmer" means and includes, irrespective of marital status or ownership of land, any woman who is a farmer as defined in sub-section (c) of section 2 and includes—

(i) any woman living in rural area and primarily engaged in agricultural activity, though occasionally engaged in non-agricultural activity; or

(ii) any woman living in urban or semi-urban areas and engaged in agriculture; or

(iii) any tribal woman directly or indirectly engaged in agriculture or shifting cultivation or in the collection, use and sale of minor or non-timber forest produce by virtue of usufructary rights.

(g) "rules" means rules notified by the Central Government under this Act.

CHAPTER II

CERTIFICATION OF WOMAN FARMER

3. (1) A Woman Farmer Certificate issued by the Gram Panchayat, after the approval of the Gram Sabha and authenticated by the Village Administrative Officer or an authorized officer of the Gram Panchayat as may be prescribed in the rules, shall be the conclusive proof of declaring a person as a woman farmer.

Certification of Woman Farmer.

(2) For urban or peri-urban areas, the certificate shall be issued by the urban local body with the approval of any corresponding authority as notified under the rules:

Provided that a group of women farmers may obtain the Group Women Farmers' Certificate in the same process as may be prescribed.

4. The woman farmer certificate issued under section 3, shall be accepted as evidence for the purposes of establishing the status of a person as a woman farmer under this Act including in all administrative and judicial proceedings.

Acceptance of Certificate as evidence.

CHAPTER III

LAND RIGHTS

5. Notwithstanding anything contained in any other law for the time being in force, every woman shall have equal ownership and inheritance rights over her husband's self acquired agricultural land, or his share of family property, or his share of land transferred by the Government under land reform or resettlement scheme:

Equal land rights to women farmer.

Provided that concurrence of both the spouses shall be necessary in the case of land transfer or acquisition as per the provision of the provided land acquisition and rehabilitation law.

Explanation.—For the purposes of this section, a woman farmer shall be deemed to have ownership and possession of equal and proportional share of agricultural property in her husband's property even, if, it is not mentioned in any of the relevant documents and the fact that she is the wife of a particular person is the conclusive proof to claim ownership and possession of her share of property and to have effective control over such share of property.

CHAPTER IV

WATER RIGHTS

Equal right to water resources.

6. A woman farmer shall have equal right, as enjoyed by male farmers, to all water resources connected with the agricultural land to which she is the owner, shareholder, possessor or uses for farming activity and shall have access to water, water resources and irrigation facilities for carrying out agricultural activities as defined in this Act.

No discrimination for irrigation purposes.

7. The woman farmers shall not be discriminated on the grounds of marital status, religion, caste, ownership or possession of agricultural land while accessing water resources for irrigation purposes.

CHAPTER V

LEGAL ACCESS TO CREDIT AND OTHER AGRICULTURAL INPUTS

Entitlement of women farmers to get credits, loans and other financial supports.

8. Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of this Act,—

(i) every woman farmer or group of women farmers who have a certificate of Woman Farmer from the appropriate authority shall be entitled to Kisan Credit Card which as of now available mainly to male farmers.

(ii) a woman farmer or group of women farmers shall be entitled to borrow money and other financial support for agricultural activity either on her own capacity or as a member of a women group as may be prescribed in the Rules without any discrimination on the grounds of marital status, place of residence, caste, religion, or absence of collateral security.

CHAPTER VI

FUND FOR SUPPORT SERVICES TO WOMEN FARMERS

Establishment of fund.

9. (1) The Central Government shall set up a Central Agricultural Development Fund for Women Farmers (CADFWF) under this Act, which shall be used to empower women farmers like, incentives for development of women farmer friendly technologies, training and capacity building, creation of market facilities, organization of creches and day care centres, social security for women farmers, old age pensions and other related issues as may be prescribed in the Rules.

(2) The Fund shall operate at the Central, State and District levels and shall be administered under the guidance of an appropriate Authority to be appointed by the Central Government at the Central level and offices of the authority appointed in consultation with the State Governments at the State and District level in such manner as may be prescribed.

(3) The Fund shall receive contributions and grants from the Central and State Governments, user fees as specified under the Rules and guidelines framed under this Act.

(4) The Authority shall support individual and groups of women farmers organized in the form of registered women's cooperatives or Mahila Kisan Kendras as per the guidelines framed under the Act.

(5) The appropriate authority shall frame guidelines with the previous approval of the Central Government by notification in the official gazette for distribution and utilization of the Fund.

(6) The Central Government shall frame a scheme for social security of women farmers, especially old age pension as may be prescribed.

(7) The appropriate authority shall also have the power to secure lands from the Government and other sources for distribution of lands to women farmers as prescribed under this Act.

10. Any person who wants to develop women-friendly technology, may qualify for short term and long term loans or grants or subsidies or venture capital from the Fund as per the guidelines framed under the Act. Women farmer friendly technology.

Explanation.—The terms 'any person' in this section means individuals and small and medium scale industries.

11. The appropriate authority shall create and facilitate market facilities for women farmers with the assistance of group of women farmers or of its own in different parts of the country including the establishment of rural godowns. Market facilities.

12. The appropriate authority shall organise regular and periodical training and capacity building programmes for women farmers in different parts of the country to make them aware of the provisions of this Act and to help them in realizing their entitlements and empowerments envisaged under this Act. Training and capacity building.

CHAPTER VII

IMPLEMENTATION AND MONITORING AUTHORITIES, THEIR RESPONSIBILITIES

13. The Central Government shall be responsible for overall implementation and monitoring of the Act, except as provided in this Act. Responsibilities of Central Government.

14. (1) The State Governments shall be responsible for implementation and monitoring of provisions relating to certification of women farmers, realization of land and water rights, operationalization of the Fund at the State and District levels and other responsibilities as mentioned in this Act. Responsibilities of State Governments.

(2) The State Government shall appoint appropriate authorities for carrying out such functions.

(3) The offices of the authority set set up in consultation with the State Government shall ensure that the land rights and water rights of the women farmers are institutionalized within the State with suitable amendments to the laws and/or Gazette notification.

15. For implementing different provisions and schemes of this Act, the local authorities like the Panchayati Raj Institutions in rural areas and Urban local bodies in urban areas shall be responsible for discharging such duties or responsibilities as may be assigned by notification to them by the concerned State Governments. Responsibilities of local authorities.

16. (1) Each State Government shall set up a Women Farmers' Entitlement Board at the State level to advice the State Government in implementation and monitoring of the Act. Women farmers' Entitlement Board.

(2) The Board shall consist of a practising woman farmer as its Chairperson and two other members dealing with or experienced in technology, credit, inputs and marketing.

(3) The tenure of the Board members shall be such as prescribed under the Rules.

(4) The Board shall follow such procedure in its proceedings as may be prescribed in the rules.

District
Vigilance
Committee.

17. (1) For ensuring transparency in functioning of this Act and accountability of the functionaries, every State Government shall set up a District Vigilance Committee in every district.

(2) The Composition of the Vigilance Committee shall be such as may be prescribed.

(3) The Vigilance Committees shall look into effective implementation of all the provisions of the Act at the district level.

Redressal of
grievances.

18. For expeditious and effective redressal of grievances of women farmers, each State Government shall set up effective institutional mechanisms at the taluka or tehsil or block level and an appellate mechanism at the District level in such manner as may be prescribed under the Rules.

CHAPTER VIII

PENALTIES AND PROCEDURES

Penalty for non-
compliance of
provisions of
this Act.

19. Whoever fails to comply with provisions of this Act, rules or guidelines made under this Act shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and with fine, or with both.

Cognizance of
offences.

20. (1) Any person aggrieved by violation of any provision of this Act, rules or guidelines made under this Act may file a complaint, within ninety days from the date of such violation, to a Court not inferior to that of a Judicial Magistrate of the first class or a Metropolitan Magistrate:

Provided that the Court may entertain any complaint after the expiry of the said period of ninety days if it is satisfied that the complainant was prevented by sufficient cause from filing the complaint within time.

(2) For the purposes of sub-section (1), person means—

(a) any women farmer who is affected;

(b) husband or representative of the women farmer who is affected; Actions in good faith. Overriding effect. Power to give directions;

(c) any association of person of farmers (whether incorporated or not), if it is affected or on behalf of an affected women farmer;

(d) any local authority within whose local limits the affected women farmer or association of persons or farmers live.

Protection of
action taken in
good faith.

21. No prosecution or other legal proceedings shall lie against any person for anything done or intended to be done in good faith.

CHAPTER IX

MISCELLANEOUS

Overriding
effect.

22. The Provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force other than this Act.

Power to give
directions.

23. Notwithstanding anything contained in any other law for the time being in force but subject to the provisions of this Act, the Central Government may, issue directions in writing to any person, officer or any authority in order to give effect to the provisions of this Act and such person, officer or authority shall be bound to comply with such directions.

Power of State
Government to
restrict the
application of
the Act to
certain areas.

24. Notwithstanding anything contained in this Act, if the State Government, after consultation with, or on the recommendation of the local body or authority, is of opinion that certain provision or provisions of this Act need not apply to certain areas of the State, it may, by notification in the Official Gazette, restrict the application of such provisions of this Act to such area or areas as may be declared therein and thereupon such provisions of this Act shall not apply to such area or areas.

25. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act to remove the difficulty:

Power to remove of difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

26. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make Rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) issuance of Women Farmer Certificate under Section 3;
- (b) facilitating financial support for women farmers under section 8;
- (c) utilization of Central Agricultural Development Fund for Women Farmers (CADFWF) under section 9;
- (d) functions and proceedings of the Women Farmers' Entitlement Board under sub-section (3) of section 16;
- (e) Composition of District Vigilance Committee in every district under section 17;
- (f) institutional mechanism for expeditious and effective redressal of grievances of women farmers under section 18.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule or regulation should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

With a gradual decline in the size of farm holdings, small and marginal farmer families are in need of multiple sources of income to come out of the poverty trap. Rural men belonging to resource poor families increasingly tend to go to towns and cities seeking work and income earning opportunities. Consequently, there is an increasing feminization of agriculture. While women farmers are extremely hard working and are also conversant with sustainable agriculture practices, they suffer from several handicaps such as title to land, and access to credit, inputs, insurance, technology and market. As early as 1995, the Fourth World Conference on Women held in Beijing urged developing countries to pay attention to the gender specific needs of women farmers. India is on the threshold of enacting a landmark Food Security Bill. Legal entitlements to food can be implemented only by improving the productivity, profitability and sustainability of small farm holdings, since small and marginal farmers produce nearly fifty percent of the foodgrains in the country, as well as milk and a wide variety of vegetables and fruits. In order to safeguard national food security, and to strengthen the livelihood security of rural women, a majority of whom are engaged in crop and animal husbandry, fisheries, agro-forestry and agro-processing, the Bill is being proposed. It is necessary to implement the aforesaid decisions under article 253 of the Constitution of India in so far as they relate to the women farmers' entitlements.

NEW DELHI;
January 1, 2018.

SUNIL KUMAR SINGH

FINANCIAL MEMORANDUM

Clause 9 of the Bill provides for Establishment of a Central Agricultural Development Fund for Women Farmers. It also provides for appointment of an appropriate Authority to administer the Fund at Central, State and District level. Clause 11 empowers the appropriate Authority to create and facilitate market facilities for women farmers. Clause 12 provides for organising training and capacity building programmes for women farmers. Clause 16 provides that State Governments shall set up Women Farmers' Entitlement Board as State level. It also provides for appointment of a practising woman farmer as its chairperson. Clause 17 provides for setting up of District Vigilance Committee. Clause 18 provides for setting institutional mechanisms at taluka or tehsil level for redressal of grievances. The expenditure relating to State shall be borne out of the Consolidated funds of the State Government concerned. However, the expenditure relating to Union territories shall be borne out of the Consolidated Fund of India. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees ten crore per annum would involve from the Consolidated Fund of India. A Non-recurring expenditure of about rupees one thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Authority to make guidelines with the previous approval of the Central Government by notification in the Official Gazette. Clause 26 empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matters in respect of which rules, guidelines may be made or framed relate to matters of procedure or administrative detail and it is not practicable to provide for them in the Bill itself, the delegation of legislative power is, therefore, of a normal character.

BILL NO. 33 OF 2018

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. This Act may be called the Constitution (Amendment) Act, 2018.

Amendment of
article 15.

2. In article 15 of the Constitution,—

“(i) in clause (1), after the words “place of birth”, the word “disability” shall be inserted.

(ii) in clause (2), after the words “place of birth”, the word “disability” shall be inserted.

(iii) in clause (4), after the words “the Scheduled Tribes”, the words “or the persons with disabilities” shall be inserted.

(iv) in clause (5), after the words “the Scheduled Tribes”, the words “or for persons with disabilities” shall be inserted.

3. In article 16 of the Constitution,—

Amendment of
article 16.

(i) in clause (2) after the words “place of birth, residence”, the word “disability” shall be inserted.

(ii) in clause (4) after the words “under the State”, the words “or in favour of the persons with disabilities” shall be inserted.

4. In article 39 of the Constitution,—

Amendment of
article 39.

(i) in sub-clause (a) for the words “and women”, the words “, women and persons with disabilities” shall be substituted.

(ii) in sub-clause (d) for the words “and women”, the words “, women and persons with disabilities” shall be substituted.

(iii) in sub-clause (e) for the words “and women”, the words “, women and persons with disabilities” shall be substituted.

5. After article 46 of the Constitution, the following be inserted, namely:—

Insertion of
new article
46A.

“46A. The State shall promote with special care the educational and economic interests of persons with disabilities and shall protect them from social injustice and from all forms of exploitation.”

Promotion of
educational
and economic
interests of
persons with
disabilities.

STATEMENT OF OBJECTS AND REASONS

Persons with disabilities remain one of the most marginalised communities in the country. Occurrences of stigma and discrimination are common in the lives of these persons. This is despite India's engagement with international conventions for persons with disabilities. India had adopted the Proclamation on the Full Participation and Equality of Persons with Disabilities in the Asian and the Pacific Region in December, 1992. Nine years after India ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2007, the Rights of Persons with Disabilities Act, 2016 came into force. The Act aimed to empower persons with disabilities by providing legal redress against discrimination, access to education and employment.

Despite the 22 year long existence of Persons With Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act, 1995; its revamp through Rights of Persons with Disabilities Act, 2016 and India's ratification of UNCRPD, progress has been slow. Seventy million disabled Indians continue to face discrimination and don't get access to public services, formal employment and education. Reportedly only seven States have a separate department for dealing with matters concerning persons with disability. According to the World Disability Report 2011, 87% of persons with disabilities work in the informal sector in India. The same report also pointed that the share of disabled children not enrolled in schools in the more prosperous States in India is more than five times the national rate. The Ministry of Social Justice and Empowerment is responsible for special schools for children with disabilities while the Department of Education is responsible for children in mainstream schools. This segregation has developed a cultural perception that more than equality of opportunity, children with disabilities are in need of welfare. These perceptions lead to stereotyping children with disabilities and breed negative attitudes.

The Hon'ble Supreme Court in the case of *Jeeja Ghosh versus Union of India* observed that, equality not only implies preventing discrimination, but goes beyond in remedying discrimination against groups suffering systematic discrimination in society. In concrete terms, it means embracing the notion of positive rights, affirmative action and reasonable accommodation. The move from the patronising and paternalistic approach to persons with disabilities represented by the medical model to viewing them as members of the community with equal rights has also been reflected in the evolution of international standards relating specifically to disabilities, as well as in moves to place the rights of persons with disabilities within the category of universal human rights.

Although section 3 of the Rights of persons with Disabilities Act, 2016 ensures equality and non-discrimination the same has not been matched with amendments in the Constitution.

Therefore, it has been proposed that article 15, Article 16 and Directive Principles of the Constitution be amended so that all policies, laws and regulations are designed keeping in view the interests of persons with disabilities. It will empower persons with disabilities as they can seek redressal for violation of their fundamental right against discrimination. By amending its Constitution, India will join the league of developed nations like Canada, Germany, UK that guarantee equal Rights to persons with disabilities in their Constitution.

Hence this Bill.

NEW DELHI;
January 15, 2018.

SHRI BHAIRON PRASAD MISHRA

BILL NO. 40 OF 2018

A Bill further to amend the Right of Children to Free and Compulsory Education Act, 2009.

BE it enacted by the Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2018.

Short title
and commence-
ment.

(2) It shall come into force with immediate effect.

35 of 2009.

2. In the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the principal Act), in the long title for the word “fourteen” the word “eighteen” shall be substituted.

Amendment
of long title.

3. In section 2 of the principal Act—

Amendment
of section 2.

(i) in clause (c), for the word “fourteen” the word “eighteen” shall be substituted.

(ii) in clause (n), after the words “elementary education”, the words “and secondary education” shall be inserted.

(iii) after clause (o), the following clause shall be inserted, namely:—

“(p) secondary education means the education from ninth to twelfth class wherein classes ninth and tenth constitute the secondary stage and classes eleventh and twelfth constitute the higher secondary stage;”

Amendment
of section 3.

4. In section 3 of the principal Act, in clause (I),

(i) for the word “fourteen” the word “eighteen” shall be substituted; and

(ii) for the word “elementary” the words “elementary and secondary” shall be substituted.

Amendment
of section 4.

5. In section 4 of the principal Act,—

(i) for the word “elementary” the words “elementary and secondary” shall be substituted; and

(ii) for the second proviso the following be substituted, namely:—

“Provided further that a child so admitted to elementary or secondary education shall be entitled to free education till completion of secondary education even after eighteen years.”

Amendment
of section 5.

6. In section 5 of the principal Act, in clauses (I) and (2) for the word “elementary” the words “elementary and secondary” shall be substituted.

Amendment
of section 8.

7. In section 8 of the principal Act, for the words “elementary” and “fourteen” wherever they occur the words “elementary and secondary” and “eighteen” shall respectively be substituted.

Amendment
of section 9.

8. In section 9 of the principal Act, for the words “elementary” and “fourteen” wherever they occur the words “elementary and secondary” and “eighteen” shall respectively be substituted.

Amendment of
section 10.

9. In section 10 of the principal Act, for the words “an elementary education” the words “a pre-school and if not at least to an elementary education” shall respectively be substituted.

Amendment of
section 11.

10. In section 11 of the principal Act, for the word “may” the word “shall” shall be substituted.

Amendment of
section 12.

11. In section 12 of the principal Act, for the word “elementary” wherever it occurs the words “elementary and secondary” shall be substituted.

Amendment of
section 14.

12. In section 14 of the principal Act, in clause (I) for the word “elementary” the words “elementary and secondary” shall be substituted.

Amendment of
section 33.

13. In section 33 of the principal Act, in clause (I) for the word “elementary” the words “elementary and secondary” shall be substituted.

Amendment of
section 34.

14. In section 34 of the principal Act, in clause (I) for the word “elementary” the words “elementary and secondary” shall be substituted.

Amendment of
section 38.

15. In section 38 of the principal Act, in clause (2)—

(i) in sub-clause (c) for the word “fourteen” the word “eighteen” be substituted; and

(ii) in sub-clause (o), for the word “elementary” the words “elementary and secondary” shall be substituted.

16. In the Schedule to the principal Act,—

(i) in Sl. No. 1, after item (b), the following shall be inserted, namely,—

“(c) For ninth class to twelfth class

(i) at least one teacher for every thirty children;

(ii) subject-wise Trained Graduate Teacher and Post Graduate Teacher;

(iii) specialized teachers for Physical Education, Art or Craft and Culture Education;

(iv) counselor for emotional and psychological support, as per school counseling programme;

(v) career counselor.”

(ii) in Sl. No. 2, in norms and standards, after (vii), the following shall be inserted, namely,—

“(viii) one integrated science laboratory — for Physics, Chemistry, Biology and Mathematics for classes ninth to twelfth (one room for science laboratory in a secondary school and at least three laboratories for science subjects) in higher secondary schools;

(ix) computer room for classes ninth to twelfth;

(x) art or Craft Culture Laboratory;

(xi) provisions to make the building disabled friendly;

(xii) a rainwater harvesting system;

(xiii) classrooms with a classroom — pupil ratio of 1:40 for classes ninth to twelfth.”

(iii) in Sl. No. 3, in norms and standards, after (iv), the following shall be inserted, namely,—

“(v) a minimum of two hundred and twenty working days for classes ninth to twelfth;

(vi) one thousand two hundred hours per academic year for the teaching and planning, out of which not more than two hundred hours may be required to be devoted for remedial teaching and attention to weak students for ninth class and tenth class;

(vii) one thousand two hundred hours per academic year for teaching and planning, out of which not more than two hundred hours may be required to be devoted for remedial teaching and attention to weak students for eleventh class and twelfth class.”

(iv) Sl. No. 5 shall be deleted.

(v) for Sl. No. 7, the following shall be substituted, namely,—

“7. Teaching learning equipment—

(i) shall be provided to each class as required;

(ii) necessary equipment for Physics, Chemistry, Biology and Mathematics will be needed initially to facilitate academic activities in laboratories for classes ninth to twelfth;

(iii) sports, music, dance, painting, culture, teaching aids.”

STATEMENT OF OBJECTS AND REASONS

Secondary education is an important stage in the educational hierarchy. It is essential to ensure greater access to secondary education by making it free and compulsory. The vision of Rashtriya Madhyamik Shiksha Abhiyan (RMSA) was to make good quality education available, accessible and affordable to all young persons in the age group of fourteen to eighteen years. Among the other goals, it aims to achieve Universal retention by 2020, a Gross Enrollment Ratio of 100% by 2017 and access to education with special references to economically weaker sections of the society. The guiding principle of this policy includes Universal Access.

India adopted 17 Sustainable Development Goals by the United Nations in 2015. Goal aims to ensure inclusive and quality education for all. It highlights that getting access to quality education can help set a strong foundation to improve lives. It also points out that while several countries have achieved gender equality in primary education, very few have managed to achieve the target at all levels of education.

India has shown tremendous progress in primary education with the implementation of the Right of Children to Free and Compulsory Education (RTE) Act, 2009. However, there have not been adequate parallel initiatives to ensure access to secondary education. As per the 2016 report by United Nations Educational, Scientific and Cultural Organisation (UNESCO), Institute for Statistics and Global Education Monitoring, 47 million youth drop out of school by the 10th standard in India. The literacy rates for the 15 and above age groups remains average at 59.3% for females and 78.8% for males in 2011. Similarly, the Gross Enrollment Ratio was at 78.5% for students in the Secondary level of school education in 2014-15. This means that 25.5% of the students in this age group do not enroll themselves in schools. In 2013-14, the annual dropout rate of students in the secondary level of school education stands high at 17.86%. For students belonging to the Scheduled Tribes, it is staggering at 27.2% and 18.66% for students belonging to the Scheduled Castes.

Therefore, it has been proposed that the coverage for RTE Act, 2009 be extended to three to eighteen years. This will cover the secondary level of education and help India achieve the Sustainable Development Goal of Quality Education as well as the objectives set under RMSA. It will also encourage State Governments to strengthen their anganwadi system or create more pre-schools. As a result, India will truly be able to ensure universal access to education to all children in the age group of three to eighteen years.

Hence this Bill.

NEW DELHI;
January 15, 2018

BHAIRON PRASAD MISHRA

FINANCIAL MEMORANDUM

The Government of India incurred an expenditure of Rs. 3562 crores in 2015-16 on Rashtriya Madhyamik Shiksha Abhiyan. The Budget for the scheme in 2016-17 was Rs. 3700 crores while in 2017-18, it was Rs. 3830 crores. It is increased by about 3.5% every year. The Bill will involve an expenditure that will be about 15% more than the expenditure on the scheme. The Bill, therefore if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees four thousand five hundred and fifty eight crore is likely to be involved.

A non-recurring expenditure of about rupees one thousand crore is also likely to be involved.

BILL NO. 42 OF 2018

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by the Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 141.

2. After section 141 of the Indian Penal Code, 1860, the following proviso shall be inserted, namely:—

“Provided that nothing in this section shall apply to peaceful protest by recognised National Political Parties on public roads or streets.”

45 of 1860.

STATEMENT OF OBJECTS AND REASONS

Section 141 of the Indian Penal Code, 1860 declares an assembly of five or more persons as unlawful for various purposes including holding public meetings by the road side. The Division Bench of Kerala High Court has banned holding public meetings beside public roads and directed the police, public works department and local self-Government not to grant permissions to hold such meetings and asked the police to take legal action against violation.

The Constitution also allows the State to impose reasonable restrictions on the fundamental rights. But it also explains the concrete conditions in which such restrictions can be imposed. The Constitution states that such restrictions can be imposed only in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign countries, public order, decency or morality or in relation to contempt of court or defamation or incitement of an offence.

The Bill proposes to protect the fundamental rights of the national political parties from any infringement due to State intervention.

Hence this Bill.

NEW DELHI;
January 15, 2018.

BHAIRON PRASAD MISHRA

BILL NO. 41 OF 2018

A Bill to constitute a Labour Welfare and Rehabilitation Authority to look into the dynamic trends in the labour market, provide for schemes to give interest free loans to workers unemployed for certain periods, issue guidelines for social sector schemes including universal basic income for all working in private and public sector, provide for wages during non-work time for seasonally employed workers, provide for hardship bonus for plantation workers, formulate schemes for rehabilitation of workers of closed industries and for all matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Labour (Welfare and Rehabilitation) Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Annual Report" means a report giving the details of developmental activities taken up over the year by the Authority and detailing about targets set and achieved;

(b) "appropriate Government" means in the case of a State or a Union territory having legislature, the concerned State Government or the Union territory Government, as the case may be, and in all other cases, the Central Government;

(c) "Authority" means the Labour Welfare and Rehabilitation Authority constituted under section 3;

(d) "health certificate" means a document signed by a competent health authority providing proof that person is healthy and competent to work; and

(e) "prescribed" means prescribed by the rules made under this Act.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be constituted, for the purposes of this Act, an Authority to be known as the Labour Welfare and Rehabilitation Authority:—

Constitution of
Labour Welfare
and
Rehabilitation
Authority.

(2) The Authority shall consist of—

(a) the Union Minister of Ministry of Labour and Employment—*ex officio* Chairperson;

(b) the Secretaries of the Union Ministries of Labour and Employment, Heavy Industries and Statistics and Programme Implementation—*ex officio* Members;

(c) the Director General V.V. Giri National Labour Institute—*ex officio* Member;

(d) the Director, Central Board for Workers Education, Union Ministry of Labour and Employment—*ex officio* Member; and

(e) the Director, Directorate General of Employment, Union Ministry of Labour and Employment—*ex officio* Member.

(3) The Central Government shall appoint such number of officers and staff as it considers necessary for the efficient functioning of the Authority.

(4) the salary and allowances payable to and other terms of conditions of services of officers and staff of the Authority shall be such, as may be prescribed, from time to time.

(5) the head office of the Authority shall be at New Delhi and the Authority may establish offices at other places in the country as it may deem necessary for carrying out the purposes of this Act.

4. (1) The Authority shall meet at such interval and place and shall determine its own procedure in regard to transaction of business at its meetings as may be prescribed.

Meetings of
the Authority.

(2) The expenditure incurred to attend meetings by the Members referred to in sub-clauses (a) to (e) of section 3 shall be borne by their concerned controlling authorities.

5. (1) The Authority shall discharge such functions as it may deem necessary to ensure welfare and rehabilitation of workers in the country and formulate a comprehensive policy within one year of its constitution for carrying out the purposes of the Act.

Functions of
the Authority.

(2) Without prejudice to the provisions contained in sub-section (1), the Authority shall perform the following functions:—

(a) to undertake a baseline study to collect comprehensive data about the existing minimum working standards in all industries and necessary data on the labour industry which shall be completed within one year of setting up of the Authority;

(b) to formulate a scheme for giving interest free loans for workers who are unemployed upto a certain period till they get employment;

(c) to recommend to the appropriate Government to formulate social security schemes including a universal basic income for all workers in private and public enterprises;

(d) to formulate scheme for providing wages all through the year for those employed seasonally;

(e) to study and recommend schemes including hardships bonus for workers in the plantation sector and other heavy industry sector;

(f) to study existing safety guidelines for workers and formulate a comprehensive set of common guidelines for workers keeping in line with international standards;

(g) to undertake organisation of labour fairs and labour awards region-wise and sector-wise for creating greater awareness on importance of a high quality labour force;

(h) to create an establishment to maintain data of workers of closed sick industries and to formulate schemes for the welfare of such workers;

(i) to undertake, promote and publish studies relating to the importance of labour safety standards and welfare; and

(j) to undertake such other activities as may be prescribed by the Central Government.

(3) The Authority shall disseminate the necessary knowledge and information collected, to the respective department of the Central Government and the State Governments.

Annual Report and its laying before Parliament.

6. (1) The Authority shall prepare once every year in such form and at such time as may be prescribed, an Annual Report giving the summary of its activities including schemes it has undertaken and recommended to the Government during the previous year and it shall contain statements of Annual Accounts of the Authority.

(2) A copy of the Annual Report shall be forwarded to the Central Government, and the Central Government shall cause the Annual Report to be laid as soon as may be after it is received, before each House of Parliament.

Central Government to provide funds.

7. The Central Government shall, from time to time, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Power to remove difficulty.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government, in consultation with the State Governments, may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of any difficulty:

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Power to make rules.

9. (1) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

India is being termed as the next big economic powerhouse and recently we surpassed China to become the fastest growing economy in the world. The challenge that we as a country face though is to ensure better labour market conditions to couple with this high growth rate. Vast majority of workers in our country still work in the informal sector. Though there has been a shift of workforce from agriculture to the manufacturing sector, still majority of the workforce are out of the social security net provided by existing legislations.

Data shows that between 2004-05 and 2011-12, the share of workers in unorganised sector fell from 86% to 82%. At the same time though, the informal workers in the organised sector (contract and other forms of casual labour) increased. These workers do not have access to proper social security. As of 2011-12, 79% of the non-agricultural wage workers had no written contract. Unemployment rates among skilled workforce is also high. Favourable policy needs to be put in place to capitalise on the demographic dividend of the country and to keep up with the changing trends in the labour market.

This Bill aims at creating a Labour Welfare and Rehabilitation Authority, to study the dynamic trends in the labour market and provide for actionable schemes. The Authority shall formulate a scheme to give interest free loans for those unemployed upto a certain period until they get a job. This Authority will issue guidelines for a social security scheme which shall be applicable to all private and Government workers which will include a minimum basic income. Those who have seasonal employment will be given the same wages for the other months when they don't have work. The Authority will also make a study of plantation workers and other heavy factory workers and provide for a scheme to give hardships bonuses for labourers in these sectors. This will also include framing uniform safety guidelines relating to working conditions in these sectors. It will also be responsible for conducting labour fairs and also constitute labour awards sector-wise to enthuse the worker community. A body to rehabilitate workers from closed or sick industries will be formed by this Authority.

The economic growth is sustainable only as long as the quality of the labour force is maintained. A well-nourished labour market is the fuel which drives this growth engine. Since, a large number of workers are not covered within the ambit of existing laws, this Bill provides for the necessary safety net. By providing for these measures, it will be the much needed antidote required for a faster and more inclusive growth within the country.

Hence this Bill.

NEW DELHI;
January 18, 2018.

BHAIRON PRASAD MISHRA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of the Labour Welfare and Rehabilitation Authority and also appointment of such number of officers and staff for its functioning. Clause 7 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve recurring expenditure of three thousand crore rupees per annum from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of normal character.

BILL NO. 62 OF 2018

A Bill to constitute a Board for promotion and protection of intangible cultural heritage of the country.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Promotion and Protection of Intangible Cultural Heritage Act, 2018. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires, —

(a) "Board" means Alha Board for the promotion and protection of intangible cultural heritage constituted under section 3;

(b) "intangible cultural heritage" means local based traditions, customs, representations and expressions including knowledge, skills and cultural heritage of community groups or individuals; and

(c) "prescribed" means prescribed by rules made under this Act.

Constitution of
the Alha
Board.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Board to be known as the Alha Board for the promotion and protection of intangible cultural heritage of the country.

(2) The headquarter of the Board shall be at Mahoba district in the State of Uttar Pradesh.

(3) The Board shall consist of twenty-five members to be appointed by the Central Government in such manner as may be prescribed:

Provided that at least one member of the Board shall be each from the State of Uttar Pradesh and Madhya Pradesh having experience in conservation of cultural heritage to be nominated by the State Government concerned:

Provided further that at least two members of the Board shall be representatives of the cultural organizations.

(4) The Chairperson of the Board shall be appointed from amongst the members of Board through consensus.

(5) The Board shall hold at least one meeting every three months.

(6) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and the members of the Board shall be such as may be prescribed.

(7) The Board may, with the approval of the Central Government, make regulations for regulating its own procedure.

Function of
Board.

4. The Board shall,—

(i) conduct an annual survey to prepare a representative list of intangible cultural heritages in the country;

(ii) prepare written documents on local traditions and provide protection through the most suitable techniques;

(iii) recognize, conserve and promote the enriched, diverse and huge intangible cultural heritage of the country;

(iv) constitute a Coordination Committee consisting of a Chairperson and at least five other members, representing various cultural traditions to create awareness towards and integration of intangible cultural heritage of the country; and

(v) formulate such rules for protection and promotion of diversities of cultural expressions, progress of inter-cultural communications and enrichment of inter-cultural activities to underline the importance of the link between culture and development.

Central
Government to
provide funds.

5. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide such funds to the Board as it may deem fit for effective implementation of the provisions of this Act.

Power to give
directions.

6. The Central Government shall, under any provision or rule made under this Act, direct the Government of any State, as it deems necessary, for the purpose of its implementation in the territorial jurisdiction of the State concerned.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Intangible cultural heritages have been existing in India since ancient times and they are a part of our mixed culture. Our nation has vibrant variations and ways of such heritage. There is a co-existence of various heritages after many adjustments due to various upheavals in the country. Recently, a committee on protection of intangible cultural heritage under UNESCO has mentioned Kumbh Mela in the representative list of intangible cultural heritage during their twelfth session organized in Jeju island in south-eastern of South Korea. It is a symbol of Indian culture which has found a place in this list of UNESCO. Before this, in the year 2016, 'Yoga' and Parsi festival 'Navroj', 'tradition of Vedic recitation of mantras', Kutiyattam, Ramlila, Ramman, Kalbelia, Mundiyehe, Chhau dance, Buddhist recitation of religious hymns of Ladakh, community prayers (Sankirtan) and Jandiyala were included in this list. Likewise, there are many intangible cultural heritages in the country such as "Nanda Jaat Yatra" in Uttarakhand, "Kanwal Yatra" in Northern India and "Alha" folk poem in Bundelkhand which are still existing through oral traditions for one thousand years and there is a need to protect, recognize and develop them.

"Alha" is sung in Hindi language in various parts of the country especially in Bundelkhand. It is related to their history and belief. It is mainly a poem in Bundeli and Avadhi language. Basic verse of Alha is in 'Kaharwa Taal' which has initially a restrained rhythm and it gradually increases. The vigorous feeling generated in the singer and listeners is remarkable. The teacher-disciple tradition is followed in Alha and it is passed on from one generation to another. Persons from all the communities take part in the singing of Alha and no discrimination is made thereto.

It is in accordance with existing International Human Rights because all people take part in this equally, devoid of any discrimination. Although, various wars are mentioned in different folk songs of 'Alha' yet it gives a message of patriotism, sacrifice and peace. 'Alha' singing reflects that patriotism, sacrifice, tolerance and amicability which are significant for the contemporary world.

Intangible cultural heritages are spread across the country which give the message of humanity. Special policy efforts are required to protect them so that social harmony, fraternity and peace can be promoted. It shall be a key to accelerate the process of making India a developed nation and through healthy and fruitful use of these heritages, Indian society shall put India on a world stage.

Hence this Bill.

NEW DELHI;
January 22, 2018.

KUNWAR PUSHPENDRA SINGH CHANDEL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Board for promotion and protection of intangible cultural heritage in the country. It also provides for a secretariat for the purpose of assisting the Board and the salary and allowances of the Chairpersons, members and employees of the Secretariat. Clause 4 provides for conducting a survey every year, preparing written documents on local traditions, protection of oral traditions and publicize, conserve and promote intangible cultural heritage. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees two thousand crore per annum.

A non-recurring expenditure of rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3(7) of the Bill empowers the Board to make regulation for regulating its own procedure. Clause 7 empowers the Central Government to make rules for carrying out the purposes of the Bill. As matters in respect of which rules and regulations may be made are matters of administrative details and procedure, the delegation of legislative power is of a normal character.

BILL NO. 60 OF 2018

A Bill to provide for the constitution of an Infrastructure Development Board for the infrastructure development of the economically backward regions of the country particularly Bundelkhand region by way of widening of National Highways, construction of ring road, bypass, doubling of single rail track line, construction of over bridge, under bridge in straight structure on railway tracks, construction of regional air strips, construction of jetties, desilting and beautification thereof and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Special Infrastructure Development in Economically Backward Regions Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "backward region" means the Bundelkhand region and such other economically backward regions of the country as the Central Government may, from time to time, declare;

(b) "Board" means Infrastructure Development Board constituted under section 3;

(c) "infrastructure" includes National Highways, ring roads, bypass, railway tracks, railway stations, regional air strips, under bridges and over bridges; and

(d) "prescribed" means prescribed by rules made under this Act.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Board to be known as the Infrastructure Development Board for carrying out the purposes of this Act.

Constitution of
Infrastructure
Development
Board.

(2) The headquarter of the Board shall be at Mahoba district in the State of Uttar Pradesh.

(3) The Board shall consist of twenty-five members to be appointed by the Central Government in such manner as may be prescribed:

Provided that at least five members of the Board shall be the Members of Parliament representing backward regions to be nominated by the Central Government in such manner as may be prescribed:

Provided further that at least one member of the Board shall be each from the States of Uttar Pradesh and Madhya Pradesh who possesses minimum twenty years of experience in infrastructure development sector.

(4) The Chairperson of the Board shall be appointed from amongst the members of Board by consensus.

(5) The Board shall consist of such number of officers and employees to be appointed by the Central Government in such manner as may be prescribed.

(6) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson, members, officers and employees of the Board shall be such as may be prescribed.

(7) The Board shall hold at least one meeting every month to review its functions and to establish coordination between various ministries.

4. The Board shall, for the purposes of the development of the backward regions—

Functions of
the Board.

(a) carry out annual survey of the infrastructure development work;

(b) fix the priority of the development work to be undertaken;

(c) carry out the widening of accident prone National Highways into four lane or six lane roads;

(d) widening of bridges over rivers and roads construct new rail and road bridges;

(e) carry out doubling of single rail track wherever required;

(f) carry out construction of rail under bridges and over bridges in straight shape;

(g) carry out construction of bypass and ring roads on National Highways;

(h) operate new trains;

(i) construct and upgrade railway stations with world class facilities;

(j) desilt large ponds, provide for beautification of jetties and operate motor boats and sea planes;

(k) ensure timely repair and renovation of old structures; and

(l) carry out other such functions as may be assigned to it, from time to time, by the Central Government.

Monitoring and assessment of development work.

5. The Central Government shall establish a Separate Centralize Management Information System for monitoring development work in the backward regions including the records and the details of all works and the review of the progress of works being undertaken by the Board with the use of modern techniques like space technique in such manner as may be prescribed.

Economic Incentives to the Agency.

6. The Central Government shall, in consultation with the Board, provide such economic incentives to the agency which completes the targeted works in specified time in such manner as may be prescribed.

Central Government to provide funds.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds to the Board for carrying out the purposes of this Act.

Power to issue directions.

8. The Central Government may give such directions to the State Government, to implement the provisions or the rules made under this Act under their jurisdiction, as it may think necessary for the purpose of this Act.

Power to make rules.

9. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Bundelkhand is an economically backward region and the Central Government has been providing economic packages for its development from time to time in the absence of any proper action plan at the States level. This amount is wasted on account of corruption and unnecessary spending and this region is still backward even after the central economic assistance. It is the responsibility of Government to take steps for the holistic development of citizens. It is very essential to quickly develop various infrastructure for the development of backward regions of the country including Bundelkhand. There is lack of regional connectivity through road, rail and air route in Bundelkhand and the present system is not very convenient also.

Accidents are very common in those narrow National Highways which causes loss of life and property. This can be solved by widening the double lane highways. Traffic jams can be avoided in their cities and towns by constructing ring road, bypass and also over bridges and under bridges roads and rail lines, respectively. There are various such points on rivers where one needs to cover a long distance to cross the rivers to reach the side in this region. It can be solved by constructing bridges on such points of the river which would cut down the travel time. Distance by train can become less cumbersome if new trains are operated and doubling of single railway tracks is completed. More amenities can be provided to rail passengers by providing world class level facilities at existing railway stations.

There are several areas in economically backward regions, in particular Bundelkhand which are naturally very scenic. Regional air facility may be augmented by establishing air connectivity which would increase the accessibility in these areas. There are many big ponds and water bodies which need repair and beautification so that tourism may be promoted in these areas. Construction of jetties around ponds and motor boats and sea planes service in these ponds may also generate more and more employment avenues.

There are several areas in Bundelkhand which are economically backward and needs improvement in infrastructure. Development of the backward regions is very crucial for the development of the country and Bundelkhand region has to play a special role in it.

The Bill, therefore, seeks to provide for the constitution of an Infrastructure Development Board for the infrastructure development of the economically backward regions of the country including Bundelkhand including the widening of National Highways, construction of ring road, bypass, doubling of single rail track line, construction of over bridge, under bridge in straight structure on railway tracks, construction of regional air strips, construction of jetties, desilting and beautification thereof to ensure accelerated development of the Bundelkhand region.

Hence this Bill.

NEW DELHI;
January 22, 2018.

KUNWAR PUSHPENDRA SINGH CHANDEL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Infrastructure Development Board. It also provides for appointment of Chairperson, members, officers and employees to the Board. Clause 5 provides for establishment of a Centralized Management Information System for monitoring and assessment of development works of the Board. Clause 6 provides for the economic incentives to the agencies which completes the targeted works in specified time. Clause 7 provides that the Central Government shall provide requisities funds to the Board for carrying out the purposes of this Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five thousand crore would involve as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of rupees five hundred crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is, therefore, of a normal character.

BILL NO. 71 OF 2018

A Bill to provide for payment of remunerative price to betel growers, insurance of betel crop free of cost, comprehensive welfare of betel growers and setting up of betel research centre and for matters connected therewith.

BE it enacted by the Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Betel Growers (Remunerative Price and Welfare) Act, 2018.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "betel" means the leaf of a plant grown in South and South East Asia and chewed as mild stimulant;
- (b) "betel grower" means a person who cultivates betel;
- (c) "Centre" means Betel Research Centre established under section 3;
- (d) "Fund" means Betel Growers Welfare Fund constituted under section 7; and
- (e) "prescribed" means prescribed by rules made under this Act.

Betel Research Centre.

3. (1) The Central Government shall, by notification in the Official Gazette, establish a Centre to be known as Betel Research Centre to study, research and suggest measures to increase the productivity and quality of betel farming in the country.

(2) The headquarters of the Centre shall be at Mahoba district in the State of Uttar Pradesh and the Centre may, with the previous approval of the Central Government, establish branches of the Centre in different parts of the country.

(3) The Centre shall consist of such number of experts, officers and employees to be appointed by the Central Government in such manner as may be prescribed.

(4) The salary and allowances payable to and other terms and conditions of experts, officers and employees of the Centre shall be such as may be prescribed.

(5) The Centre shall be operated by such rules as may be prescribed.

Procurement of betel crop.

4. The Central Government shall procure the entire betel crop from the betel growers in the country through such agency and in such manner as may be prescribed.

Fixation of remunerative price of betel.

5. The Central Government shall after considering the following, determine the remunerative price of betel every year—

- (a) expenditure on construction of structures including *bajra*, *mandap* for betel farming;
- (b) increase in the price of pesticides, fertilisers and other inputs;
- (c) total investment of betel growers; and
- (d) such other factors as may be prescribed.

Insurance.

6. The entire betel produced by the betel growers shall be compulsorily insured free of cost by the Central Government against natural calamities, fall in the productivity of betel, fall in the price of betel and such other eventualities as may be prescribed.

Betel Growers Welfare Fund.

7. (1) The Central Government shall constitute a fund to be known as the Betel Growers' Welfare Fund for carrying out the purposes of this Act.

(2) The Central Government and the State Government shall contribute to the Fund in such ratio as may be prescribed.

Utilisation of Fund.

8. The Fund shall be used for the following purposes, namely:—

- (a) to provide financial assistance to betel growers for the expenditure on construction of structures like *bajra*, *mandap* for the betel farming, loss to crop due to pesticides, fertilisers, storm, excessive rain, hailstorming, flood, drought or in condition of loss of productivity of betel;
- (b) for the payment of compensation to the next kin of betel growers in the event of their death;
- (c) to provide free medical services to betel growers and their families;
- (d) to provide assistance to betel growers in the event of disability; and
- (e) for such other purposes as may be prescribed.

9. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Agriculture is the main source of income in the Bundelkhand region of the country. Since many decades, condition of agriculture economy is fragile in Bundelkhand region due to climate change and people are forced to migrate from this region due to unavailability of other employment alternative. There is a need to upgrade the agricultural technology, agriculture infrastructure development, investment, easy loan availability and simple agriculture insurance scheme in Bundelkhand. With the continuous and integrated efforts, the condition of agriculture may be improved in Bundelkhand.

Betel farming is being done in the Mahoba district of Bundelkhand region and also in various parts of the country since ancient times. Mahoba betel is famous in the world. Betel farming in fully controlled manner is very expensive but it creates employment opportunities at very large scale. In Mahoba, betel farming is done in a co-operative manner which is done by five to ten families collectively and surprisingly, this is very successful in this region since long time. The structures like *bajra* and *mandap* are constructed to control the humidity and temperature for betel farming. They are rare examples of scientific and technical application of Indian traditional agriculture which has been used since 2000 years and probably this is the most revolutionary application in India after the use of iron in agriculture.

However, betel, which has religious, cultural, medicinal and economic significance, is fighting for its existence today, particularly in Bundelkhand region. On one hand, new research is required for protection of betel farming, on the other hand, special provisions are very much necessary for the welfare of betel growers.

This Bill, therefore, seeks to provide for improvement in betel production methods through new research and special provisions for the welfare of betel growers.

Hence this Bill.

NEW DELHI;
January 22, 2018.

KUNWAR PUSHPENDRA SINGH CHANDEL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of Research Centre to study, research and suggest measures to increase the productivity and quality of betel farming. Clause 4 provides for procurement of betel from betel growers by an agency to be set up by the Central Government and fixation of remunerative prices for betel by the Central Government. Clause 6 provides for compulsory free insurance by the Central Government of betel against natural calamities. Clause 7 provides for constitution of a Betel Growers Welfare Fund to which the Central Government and the State Governments shall contribute. Clause 8 provides for contribution of the Central Government and the State Government to the Betel Growers Welfare Fund.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees five hundred crore will be involved per annum.

A non-recurring annual expenditure of about rupees fifty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 136 OF 2018

A Bill further to amend the Ancient Monuments Preservation Act, 1904.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Ancient Monuments Preservation (Amendment) Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of
new sections
20D and 20E.

2. After section 20C of the Ancient Monuments Preservation Act, 1904, the following sections shall be inserted, namely:—

Prohibition of
transfer of
ancient
monuments by
the
Governments.

“20D. Notwithstanding anything in this Act, no ancient monument held, owned or acquired by the Central Government or a State Government shall be transferred by way of lease, sale or otherwise by that Government.

20E. The Central Government or a State Government, as the case may be, in whose possession an ancient monument is, shall be solely responsible for the maintenance, upkeep, improvement of profitability and development as tourist place of such ancient monuments.”.

Government to be solely responsible for maintenance of ancient monuments.

STATEMENT OF OBJECTS AND REASONS

The ancient monuments being part of our rich heritage and wealth of nation have to be preserved to uphold the nation's great traditions and history. The Ancient Monuments Preservation Act, 1904 provides for the acquisition and maintenance of such properties that come under the description of ancient monuments. However, the Central and State Governments are, of late, transferring by way of sale, lease or otherwise, properties which are ancient monuments and heritage sites of our country. Such transfers need to be prevented.

The Bill, therefore, seeks to amend the Ancient Monuments Preservation Act, 1904 with a view to:—

- (a) prohibit transfer of ancient monuments by the Central or State Government by way of lease, sale or otherwise; and
- (b) make the Central Government and the State Governments to be solely responsible for the maintenance of ancient monuments.

Hence this Bill.

NEW DELHI;
July 4, 2018.

MULLAPPALLY RAMACHANDRAN

BILL NO. 134 OF 2018

A Bill further to amend the Prevention of Food Adulteration Act, 1954.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called as the Prevention of Food Adulteration (Amendment) Act, 2018. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

37 of 1954. 2. In section 2 of the Prevention of Food Adulteration (Amendment) Act, 1954 (hereinafter referred to as the principal Act),— Amendment of section 2.

(a) after clause (iii), the following clauses shall be inserted, namely:—

"(iiiia) 'consumables' means any article meant for human consumption as food or drink and shall include raw and cooked fish, meats, vegetables, fruits,

poultry and dairy products, bottled water, soft drinks, grains, pulses, cooking oils, spices, dry fruits and sauces;

(*iiib*) "contaminated"— an article of food shall be deemed to be contaminated—

(*a*) if there is any addition or use of any contaminating substance in any article of food or in the packing of such article of food;

(*b*) if harmful chemicals, preservatives, acids, paints, polish or wax have been used in any article of food which are not permitted in the use of such article of food; and

(*c*) if formalin, wax, ammonia or any dangerous chemical or substance is used for the preservation of food.";

(*b*) for clause (*v*), the following clause shall be substituted, namely:—

'(*v*) "food" means any article used as food or drink for human consumption other than drugs and includes any substance consumed by human beings as food and shall include cooked and uncooked food, milk and milk products, dairy produce, meats of all variety, fish of all variety, vegetables of all variety, fruits of all variety, grains and pulses of all variety, packed drinks including drinking water;' ; and

(*c*) after clause (*vi*), the following clause shall be inserted, namely:—

"(*via*) 'harmful chemicals' include formalin, ammonia and other chemicals and insecticides, pesticides and preservatives, the presence of which in food causes or is likely to cause harm to the consumer.".

Amendment of section 5.

3. In section 5 of the principal Act, after clause (*i*), the following clause shall be inserted, namely:—

"(*ia*) any contaminated food;".

Insertion of new section 5A.

4. After section 5 of the principal Act, the following section shall be inserted, namely:—

Prohibition of export of contaminated food.

"5A. No person shall export from India any adulterated or contaminated food.".

Amendment of section 7.

5. In section 7 of the principal Act, after clause (*i*), the following clause shall be inserted, namely:—

"(*ia*) any contaminated food;".

Amendment of section 16.

6. In section 16 of the principal Act, the existing sub-section (*IAA*) shall be renumbered as sub-section (*IAB*) and before the sub-section (*IAB*) so as renumbered, the following sub-section shall be inserted, namely:—

"(*IAA*) Any person who, whether by himself or by any other person on his behalf, export from India or manufactures for sale or stores, sells or distributes any contaminated food shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which shall not be less than rupees one lakh:

Provided that if the contaminated food, consumed by any person is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of section 320 of the Indian Penal Code (45 of 1860), he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to term of life and with fine which shall not be less than rupees two lakh;".

STATEMENT OF OBJECTS AND REASONS

Pollution, contamination and adulteration in foods for human consumption is on the rise, deeply affecting the health and lives of the persons at large. It is not only the adulteration of foodstuffs that is dangerous to human health but more so it is the contamination of food by use of extremely dangerous chemical substances that is more harmful to health and is mostly fatal. Unfortunately in today's commercial life we find people knowingly or unknowingly indulging in poisoning food by the use of substances like formalin and ammonia to preserve fish and meats and also dangerous levels of insecticides and pesticides and even artificial ripening agents and colours on fruits and vegetables. It is pertinent to note that huge consignments of our traditional fruits like mangoes and large wealth of fish are being rejected by foreign purchasers because of the presence of these dangerous chemicals.

We cannot expose our country's reputation in the international market or our own nation's consumers to the dangers of these substances. Experts opined that consumption of these substances cause incurable and fatal diseases. If left unfettered, this will cause a health emergency in the country. The use of such substances tantamount to homicide — not of individuals — but of whole community. It is essential to bring stringent law to prohibit the use of such substances or consumables and to inflict deterrent punishment for such use.

The Bill, therefore, seeks to amend the Prevention of Food Adulteration Act, 1954 with a view to prohibit export from India or manufacture for sale or store, sell or distribution of any contaminated food and to provide for punishment thereto.

Hence this Bill.

NEW DELHI;
June 29, 2017.

MULLAPPALLY RAMACHANDRAN

BILL NO. 46 OF 2018

A Bill to establish and incorporate a Central Sanskrit University at Mahoba in the State of Uttar Pradesh to promote Sanskrit language, literature, research in old Sanskrit manuscripts and its use in different subjects like computer, science, mathematics and social sciences with inter-disciplinary approach and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty- ninth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Central Sanskrit University Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, and in all Statutes made hereunder, unless the context otherwise requires,— Definitions.

(a) "Academic Council" means the Academic Council of the University;

(b) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;

(c) "Board of Studies" means the Board of Studies of a Department of the University;

(d) "Chancellor", "Vice-Chancellor", and "Pro-Vice-Chancellor" mean, respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;

(e) "College" means a college maintained by the University;

(f) "Court" means the Court of the University;

(g) "Department" means a Department of Studies and includes a Centre of Studies;

(h) "distance education system" means the system of imparting education through any means of communication, such as broadcasting, telecasting, webcasting, correspondence courses, seminars, contact programmes or the combination of any two or more such means;

(i) "employee" means any person appointed by the University and includes teachers and other staff of the University;

(j) "Executive Council" means the Executive Council of the University;

(k) "Faculty" means a Faculty of the University;

(l) "Finance Committee" means Finance Committee of the University;

(m) "Institution" means an academic institution, not being a college, maintained by, or admitted to the privileges of, the University;

(n) "Regulations" means the Regulations made by any authority of the University under this Act for the time being in force;

(o) "Statutes" and "Ordinances" mean, respectively, the Statutes and the Ordinances of the University, for the time being in force;

(p) "teachers of the University" mean Professors, Associate Professors, Assistant Professors and such other persons as may be appointed for imparting instruction or conducting research in the University; and

(q) "University" means the Central Sanskrit University as incorporated under this Act.

3. (1) There shall be established, in the State of Uttar Pradesh a Central Sanskrit Establishment of University.

(2) The headquarter of the University shall be at Mahoba in the State of Uttar Pradesh.

(3) The first Chancellor, the first Vice-Chancellor and the first members of the Court, the Executive Council and the Academic Council, and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of the University.

(4) The University shall have perpetual succession and a common seal, and shall sue and be sued by the said name.

Objects of
University.

4. The objects of the University shall be to promote Sanskrit language, literature, research in old Sanskrit manuscripts and its use in different subjects like computer, science, mathematics and social sciences with inter-disciplinary approach.

Powers of
University.

5. (1) The University shall have the following powers, namely:—

(i) to provide for instructions in Sanskrit language and literature as the University may, from time to time, determine and to make provisions for research and for the advancement and dissemination of knowledge for furtherance of the objects of the University;

(ii) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on the basis of examinations, evaluation or any other method of testing, on persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause in the manner prescribed by the Statutes;

(iii) to organise conferences, seminars on Sanskrit language and literature;

(iv) to organise and to undertake extra-mural studies, training and extension services;

(v) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(vi) to provide facilities through the distance education system as it may determine;

(vii) to institute Principalships, Professorships, Associate Professorships, Assistant Professorships and other teaching or academic positions, required by the University and to appoint persons to such Principalships, Professorships, Associate Professorships, Assistant Professorships or other teaching or academic positions;

(viii) to recognise an institution of higher learning for such purposes as the University may determine and to withdraw such recognition in the manner prescribed by the Statutes;

(ix) to appoint persons working in any other University or educational institution, including those located outside the country, as teachers of the University for a specified period;

(x) to create administrative, Ministerial and other posts and to make appointments thereto;

(xi) to co-operate or collaborate or associate with any other University or authority or institution of higher learning, including those located outside the country, in such manner and for such purposes as the University may determine;

(xii) to collaborate with any other college or university, research institution, industry association, professional or any other organisation, in India or outside India to conceptualise, design and develop specific programmes as part of education and research, training programmes and exchange programmes for students, academic staff and others;

(xiii) to institute and award fellowships, scholarships, studentships, medals and prizes;

(xiv) to establish and maintain Colleges and Institutions;

(xv) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions, industrial or other organisations, as the University may deem necessary;

(xvi) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other academic staff;

(xvii) to appoint on contract or otherwise visiting Professors, Emeritus Professors, Consultants, Scholars and such other persons who may contribute to the advancement of the objects of the University;

(xviii) to confer autonomous status on a College or an Institution or a Department, as the case may be, in accordance with the Statutes;

(xix) to determine standards of admission to the University, which may include examination, evaluation or any other method of testing;

(xx) to demand and receive payment of fees and other charges;

(xxi) to establish and maintain a health care centre for the benefit of the students and employees;

(xxii) to make arrangements for promoting the health and general welfare of the employees;

(xxiii) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(xxiv) to lay down conditions of service of all categories of employees, including their Code of conduct;

(xxv) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(xxvi) to receive benefactions, donations and gifts and to acquire, hold and manage, and to dispose of, without the previous approval of the Central Government, any property, movable or immovable, including trust and endowment properties for the purposes of the University;

(xxvii) to borrow, without the approval of the Central Government, on the security of the property of the University, money for the purposes of the University;

(xxviii) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

(2) In exercising its powers referred to in sub-section (1), it shall be the endeavour of the University to maintain an all-India character and high standards of teaching and research, and the University shall, among other measures which may be necessary for the said purpose and take, in particular, the following measures, namely:—

(i) admission of students and recruitment of Faculty shall be made on all-India basis;

(ii) admissions of students shall be made on merit, either through Entrance Tests conducted by the University or in combination with other Universities, or on the basis of marks obtained in the qualifying examinations;

(iii) encourage inter-University mobility of Faculty;

(iv) introduce semester system, continuous evaluation and choice based credit system and enter into agreements with other Universities and academic institutions for credit transfer and joint degree programmes;

(v) introduce innovative courses and programmes of studies with provision for periodic review and restructuring;

(vi) ensure active participation of students in all academic activities of the University, including evaluation of teachers;

(vii) obtain mandatory accreditation from National Assessment and Accreditation Council or any other statutory accrediting agency; and

(viii) introduce e-governance with an effective management information system.

Jurisdiction.

6. The jurisdiction of the University shall extend to the whole of India.

University
Open to all
Classes,
Castes and
Creeds.

7. The University shall be open to all persons irrespective of caste, creed, race or class.

Visitor.

8. (1) The President of India shall be the Visitor of the University.

(2) The Visitor shall have such other powers as may be prescribed by the Statutes.

Officers of
University.

9. The following shall be the officers of the University:—

(1) the Chancellor;

(2) the Vice-Chancellor;

(3) the Pro-Vice-Chancellor;

(4) the Deans of Faculties;

(5) the Registrar;

(6) the Finance Officer;

(7) the Controller of Examinations;

(8) the Librarian; and

(9) such other officers as may be declared by the Statutes to be officers of the University.

Chancellor

10. (1) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Chancellor shall, by virtue of his office, be the head of the University and shall, if present, preside at the Convocations of the University held for conferring degrees and meetings of the Court.

Vice-
Chancellor

11. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

Pro-Vice-
Chancellor.

12. The Pro-Vice-Chancellor shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

Deans of
Schools.

13. Every Dean of School shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

Registrar.

14. (1) The Registrar shall be appointed in such manner and on such terms and conditions of service as may be prescribed by the Statutes.

(2) The Registrar shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

- 15.** The Finance Officer shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes. Finance Officer.
- 16.** The Controller of Examinations shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes. Controller of Examinations.
- 17.** The Librarian shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes. Librarian.
- 18.** The manner of appointment and powers and duties of other officers of the University shall be prescribed by the Statutes. Other Officers.
- 19.** The following shall be the authorities of the University:— Authorities of University.
- (1) the Court;
 - (2) the Executive Council;
 - (3) the Academic Council;
 - (4) the Board of Studies and Academic Boards;
 - (5) the Finance Committee; and
 - (6) such other authorities as may be declared by the Statutes to be the authorities of the University.
- 20.** (1) The constitution of the Court and the term of office of its members shall be prescribed by the Statutes. Court.
- (2) Subject to the provisions of this Act, the Court shall have the following powers and sanctions, namely:—
- (a) to review, from time to time, the broad policies and programmes of the University and to suggest measures for the improvement and development of the University; and
 - (b) to perform such other functions as may be prescribed by the Statutes.
- 21.** (1) The Executive Council shall be the principal executive body of the University. Executive Council.
- (2) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:
- Provided that the Executive Council shall have adequate number of members from among the women:
- Provided further that such number of members as may be prescribed by the Statutes shall be from among the elected members of the Court.
- 22.** (1) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, coordinate and exercise general supervision over the academic policies of the University. Academic Council.
- (2) The constitution of the Academic Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:
- Provided that the Academic Council shall have such number of members as may be prescribed by the Statutes shall be from among the elected members of the Court.
- 23.** The constitution, powers and functions of the Board of Studies shall be prescribed by the Statutes. Board of Studies and the Academic Boards.
- 24.** The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes. Finance Committee.

Other
Authorities of
the University.

25. The Constitution, powers and functions of other authorities, as may be declared by the Statutes to be the authorities of the University, shall be prescribed by the Statutes.

Power to make
Statutes.

26. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) the constitution, powers and functions of authorities and other bodies of the University, as may be constituted, from time to time;

(b) the appointment and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members, and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(c) the withdrawal of degrees, diplomas, certificates and other academic distinctions; and

(d) all other matters which by this Act are to be or may be provided for by the Statutes.

Power to make
Ordinances.

27. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(a) the admission of students to the University and their enrolment as such;

(b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;

(c) the establishment of Centres of Studies, Boards of Studies and other Committees; and

(d) all other matters which by this Act or the Statutes, are to be or may be, provided for by the Ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor with the previous approval of the Central Government and the Ordinances so made may be amended, repealed or added to at any time by the Executive Council in the manner prescribed by the Statutes.

Regulations.

28. The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

Annual Report.

29. (1) The annual report of the University shall be prepared under the direction of the Executive Council, which shall include, among other matters, the steps taken by the University towards the fulfillment of its objects and shall be submitted to the Court on or before such date as may be prescribed by the Central Government and the Court shall consider the report in its annual meeting.

(2) The Court shall submit the annual report to the Visitor along with its comments, if any.

(3) A copy of the annual report, as prepared under sub-section (1), shall also be submitted to the Central Government, and that Government which shall, as soon as may be after it is submitted, cause the same to be laid before both Houses of Parliament.

Annual
Account.

30. (1) The annual accounts and balance sheet of the University shall be prepared under the directions of the Executive Council and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise on his behalf.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the Court and the Visitor along with the observations of the Executive Council.

(3) A copy of the annual accounts together with the audit report as submitted to the Visitor, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

31. The University shall furnish to the Central Government such returns or other information with respect to its property or activities as the Central Government may, from time to time, require.

Returns and
Information.

32. (1) Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

Condition of
Service of
Employees.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee concerned and an umpire appointed by the Visitor.

33. Every employee or student of the University or of a College or Institution maintained by the University shall, notwithstanding anything contained in this Act, have a right to appeal within such time as may be prescribed by the Statutes, to the Executive Council against the decision of any officer or authority of the University or of the Principal or the management of any College or an Institution, as the case may be, and thereupon the Executive Council may confirm, modify or reverse the decision appealed against.

Right to
Appeal.

34. All casual vacancies among the members (other than *ex officio* members) of any authority or other body of the University shall be filled, as soon as may be, by the person or body who appoints, elects or co-opts the member whose place has become vacant and the person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

Filling of
casual
vacancies.

35. The Executive Council may appoint a person of high academic distinction and professional attainments to accept a post of Professor or Associate Professor or any other equivalent academic post in the University on such terms and conditions as it deems fit:

Special Mode
of
Appointment.

Provided that the Executive Council may also create supernumerary posts for a specified period for appointment of such persons.

36. (1) An authority of the University may appoint as many standing or special Committees as it may deem fit, and may appoint to such Committees persons who are not members of such authority.

Committee.

(2) A Committee appointed under clause (1) may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing it.

37. The Executive Council may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees:

Honorary
degrees.

Provided that in case of emergency, the Executive Council may, on its own motion, make such proposals.

38. Convocations of the University for the conferring of degrees shall be held in such manner as may be prescribed by the Ordinances.

Convocations.

Alumni
Association.

39. There shall be an Alumni Association for the University.

Student's
Council.

40. There shall be constituted in the University, a Student's Council for every academic year, consisting of—

(i) the Dean of Students Welfare who shall be Chairperson of the Student Council;

(ii) twenty-five students to be nominated by the Academic Council on the basis of merit in studies, sports and extra-curricular activities; and

(iii) twenty-five elected representatives of students in the manner prescribed by the Ordinances.

Delegation of
powers.

41. Subject to the provisions of the Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.

Protection of
action taken in
good faith.

42. No suit or other legal proceeding shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

Power to
remove
difficulties.

43. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

Statutes,
Ordinances
and
Regulations to
be published in
the Official
Gazette and to
be laid before
Parliament.

44. (1) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

(2) Every Statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.

(3) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances or Regulations or any of them but no retrospective effect shall be given to any Statute, Ordinance or Regulation so as to prejudicially

affect the interests of any person to whom such Statute, Ordinance or Regulation may be applicable.

45. Notwithstanding anything contained in this Act and the Statutes,—

Transitional
provisions.

(a) the first Chancellor and first Vice-Chancellor shall be appointed by the Visitor in such manner and on such conditions as may be deemed fit and each of the said officer shall hold office for such term, not exceeding five years as may be specified by the Visitor;

(b) the first Registrar and the first Finance Officer shall be appointed by the Visitor and each of the said officers shall hold office for a term of three years;

(c) the first Court and the first Executive Council shall consist of not more than thirty One members and eleven members, respectively, who shall be nominated by the Central Government and shall hold office for a term of three years; and

(d) the first Academic Council shall consist of not more than twenty-one members, who shall be nominated by the Central Government and they shall hold office for a term of three years:

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be in the manner prescribed by the Statutes.

STATEMENT OF OBJECTS AND REASONS

"उत्तरं यत्समुद्रस्य हिमाद्रेश्चैव दक्षिणम्। वर्षं तद्भारतं नाम भारती यत्र संततिः" means in the north side of sea and south of Himalaya there is a sacred land known as "Bharat Varsh" and their generations are called as "Bhartiya". This *Shaloka* is taken from "Vishnu Puran" which describes physical boundary of India (Bharat Varsh). The first and authentic description of Indian boundaries is available only in old Sanskrit literature. No one can imagine India without Sanskrit. But despite of many institutions of Sanskrit in country, at present condition of Sanskrit language is dismal and not known to be a language of common man.

Sanskrit is not only mother of different Indian languages but also of some foreign languages. It is important to highlight here that relation between Sanskrit language and Indian scheduled and non-scheduled languages are symbiotic in nature and as a result, development of Sanskrit means development of other languages also. Sanskrit literature- *Ved. Brahman, Aranyak, Upanishad, Paran, Bhaishya*, etc. are source of fundamental and behavioural knowledge of different fields like science and human life. So for fast development of India, common people should have basic understanding about Sanskrit.

The great scientists of modern era like Schopenhauer, Niels Bohr, Einstein, etc. all have studied Upanishads. Utilitarian thoughts for social system like "Satyamev Jayate (सत्यमेव जयते)", "Vasudhaiv Kutumbakam (वसुधैव कुटुम्बकम्)" etc. are taken from ancient books and were written in Sanskrit only.

These ancient scriptures are source of great knowledge and with following the morals contained therein. India can become world leader in near future. But for this there should be basic understanding of Sanskrit amongst common people. This is only possible when there shall be use of Sanskrit language in research and development of computer science, traditional science, mathematics and different social sciences and imparting of compulsory education of Sanskrit in all level and kind of education institutes.

To promote teaching of Sanskrit and its use into modern science and technology establishment of Central Sanskrit University is inevitable.

Hence this Bill.

NEW DELHI;
January 30, 2018.

KUNWAR PUSHPENDRA SINGH CHANDEL

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to establish a Central Sanskrit University as a body corporate to at Mahoba in the State of Uttar Pradesh to promote Sanskrit language, literature, research in old Sanskrit manuscripts and its use in different subjects like computer science, mathematics and social sciences with inter-disciplinary approach. After enactment of the Bill, the Vice Chancellor will be appointed, who will prepare the Vision Document and the Draft Project Report under the guidance of the statutory authorities of the University. The actual financial requirements of the University will be worked out on the basis of the Draft Project Report. It is expected that the proposed University would require about rupees one thousand crore during the next Plan period. The expenditure would be met from the Consolidated Fund of India through the University Grants Commission under the budgetary provisions of the Ministry of Human Resource Development.

MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Sub-Clause (2) of clause 27 of the Bill empowers the Vice-Chancellor to make the first Ordinances of the University with the previous approval of the Central Government and provides that the Ordinances so made may be amended, repealed or added to at any time by the Executive Council in the manner prescribed by the Statutes. The matters in respect of which Ordinances may be made, or as the case may be, amended, repealed or added to, relate to admission of students, courses of study, medium of instruction and examination, the manner of co-operation and collaboration with other Universities, institutions and other agencies, the setting up of a machinery for redressal of grievances of employees and other such matters.

2. Clause 28 of the Bill enables the authorities of the University to make Regulations, consistent with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

3. Clause 41 empowers that any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.

4. Clause 43 empowers the Central Government, by order published in the Official Gazette, to make provisions to remove certain difficulties, which may appear to be necessary or expedient and such an order is not to be made after the expiry of a period of three years from the commencement of the Act and such order shall be laid before each House of Parliament.

5. Clause 44 provides that every Statute, Ordinance or Regulation made under the Act shall be published in the Official Gazette and they shall be laid before each House of Parliament.

6. The matters for which the Statutes, Ordinances or Regulations may be made pertain to matters of procedure or detail and it is not possible to provide for them in the Bill. The delegation of legislative powers is, therefore, of normal character.

BILL NO. 36 OF 2018

A Bill to establish bribery as a criminal offence and to promote effective practices to prevent bribery in private sector and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Prevention of Bribery in Private Sector Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "bribe" includes facilitation payments, directly or through third parties, gift, hospitality and expenses which may or perceive to affect the outcome of business transactions, which are not reasonable and *bonafide*;

Explanation.—The term 'bribe' shall become extortion when the demand of bribe is accompanied by threats that endanger the personal integrity or the life of the person involved, or forced payment of bribe to protect legitimate right or the speed money, for expediting approvals and for providing or not withholding services;

(b) "commercial entity" means—

(i) a body incorporated under the laws of India which carries on business in India or outside India; or

(ii) any other body corporate, wherever incorporated, which carries on business, or part of a business, in India; or

(iii) a partnership formed under the law in India which carries on business in India or outside India; or

(iv) any other partnership, wherever formed, which carries on business, or part of a business, in India:

Explanation.—The term 'business' includes any trade, profession, commerce or manufacture;

(c) 'confiscation' means the permanent deprivation of property by order of a court or other competent authority and also includes forfeiture;

(d) 'foreign public official' means any person holding a legislative, executive, administrative or judicial office of a foreign country, whether appointed or elected as permanent or temporary, paid or unpaid or any person performing a public function or a public service for a foreign country;

(e) 'non-governmental organisation' means a body incorporated under the laws in India or any other body corporate, wherever incorporated which carries on its charitable or religious activities in India, any society registered under the Societies Registration Act, 1860; a trust registered under the Indian Trusts Act, 1882 or association of persons which carries on its charitable or religious activities in India and includes community based organisations;

21 of 1860.
2 of 1882.

Explanation.—The term 'charitable or religious activities' means activities as defined in sub-section (15) of section 2 of the Income Tax Act, 1961:

43 of 1961.

(f) 'person' includes—

(i) an individual;

(ii) a company;

(iii) a firm;

(iv) a society;

(v) a trust;

(vi) a Hindu Undivided Family (HUF);

(vii) an association of persons or a body of individuals, whether incorporated or not;

(viii) limited liability partnership;

(ix) every artificial juridical person not falling within any of the preceding sub-clauses; and

(x) any agency, office or branch owned or controlled by such person;

(g) 'prescribed' means prescribed by rules made under this Act;

(h) 'proceeds of crime' means any property derived or obtained, directly or indirectly through the commission of offence under this Act; and

(i) 'property' means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets.

Bribery in the private sector.

3. (1) A person shall be guilty of committing an offence of giving bribe, when committed intentionally in the course of economic, financial or commercial activities when it is established that there is a promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a commercial entity, for the person himself or for another person, in order that he in breach of his duties, acts or refrains from acting in certain matters.

(2) A person shall be guilty of committing an offence of receiving bribe, when committed intentionally in the course of economic, financial or commercial activities when it is established that there is solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a commercial entity, for the person himself or for another person, in order that he in breach of his duties, acts or refrains from acting in certain matters.

Offence of Bribery of foreign public officials.

4. A person shall be guilty of committing an offence of bribery to a foreign public officials, when committed intentionally in the conduct of international business, when it is established that there is an offer, promise or giving any undue pecuniary or other advantage, whether directly or through an intermediary, to a foreign public official, for that official or for a third party, in order that the official acts or refrains from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage.

Explanation.—For the purpose of this section, offence of bribery of foreign public officials includes complicity, incitement, aiding, abetting and authorization of an act of bribery of a foreign public official or an attempt and conspiracy to bribe a foreign public official.

Abet, aid or instigate another person to commit an offence of bribery.

5. (1) Any person, who in any capacity abets or aids or instigates another person to commit an offence under sections 3 or 4 shall be deemed to be guilty of offence under that section.

(2) Any person, who attempts to commit an offence under sections 3 or 4 shall be deemed to be guilty of an offence under that section.

Offence of Bribing by commercial entity.

6. A commercial entity shall be guilty of committing an offence under this section if a person associated with it, bribes another person intending—

(i) to obtain or retain business for the commercial entity, or

(ii) to obtain or retain an advantage in the conduct of business for the commercial entity:

Provided that the commercial entity may in defence prove that it has in place adequate procedures, as may be prescribed, designed to prevent persons associated with it from undertaking such conduct.

Offence of bribery by non-governmental organisation.

7. A non-governmental organisation shall be guilty of committing an offence under this section if a person associated with it, bribes another person intending—

(i) to obtain or retain assets, grants for the non-governmental organisation; or

(ii) to obtain or retain an advantage in the conduct of its charitable activities:

Provided that the commercial entity may in defence prove that it has in place adequate procedures, as may be prescribed, designed to prevent persons associated with it from undertaking such conduct.

Offence of bribery by company.

8. (1) Where a company contravenes any provision of this Act, every person who, at the time when contravention was committed, was in charge of or was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of offence and be punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where any contravention has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of committing contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(i) 'company' means anybody corporate and includes a firm, society, trust, limited liability partnership or other association of persons; and

(ii) 'director' in relation to a firm means a partner of the firm and in relation to a trust means trustee of the trust.

9. (1) An individual guilty of an offence under sections 3 or 4 shall be liable on the first offence, for imprisonment for a term not exceeding seven years or to a fine not exceeding rupees four lakh or both and for second or subsequent contravention, for imprisonment for a term not exceeding ten years or to a fine not less than rupees six lakh or both. Penalties.

(2) any other person guilty of an offence under sections 3 or 4 shall be liable on the first offence, to a fine not exceeding rupees three lakh and for second or subsequent contravention, to a fine not less than rupees five lakh.

(3) A person guilty of an offence under section 5 is liable on conviction to a fine not more than rupees two lakh.

10. (1) On conviction of a person the proceeds of crime derived from or involved in offences under sections 3 or 4, or the property the value of which corresponds to that of such proceeds shall be confiscated. Confiscation of proceeds of crime.

(2) If proceeds of crime have been transformed or converted, by the person in part or in full, into other property, such property shall be liable to be confiscated.

(3) If proceeds of crime have been intermingled by the person with property acquired from legitimate sources, such property shall be liable to be confiscated up to the assessed value of the intermingled proceeds.

(4) Income or other benefits derived by any person from such proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled shall also be liable to be confiscated in the same manner and to the same extent as proceeds of crime.

(5) For the purpose of this section, notwithstanding any rights or privilege provided through any other Act or by an agreement between the parties, the adjudicating authority shall have authority to order any bank, financial institution, financial intermediary or commercial entity to provide information, seize or produce records, freeze accounts and remit the proceeds of crime to the designated account.

(6) The proceeds of crime confiscated under this Act shall vest in the Central Government.

11. (1) The Central Government shall, by notification in the Official Gazette, appoint such number of Special Judges as may be necessary to try the offences punishable under this Act. Power to appoint Special Judges.

(2) A person shall not be qualified for appointment as a Special Judge under this Act unless he is or has been a Sessions Judge or an Additional Sessions Judge under the Code of Criminal Procedure, 1973.

(3) A Special Judge shall follow the procedure prescribed by the Code of Criminal Procedure, 1973 for the trial.

2 of 1974.

(4) A Special Judge, while trying an offence punishable under this Act shall exercise all the powers and functions exercisable by a District Judge.

Appeal and revision.

12. Subject to the provisions of this Act, the High Court may exercise, so far as applicable, all the powers of appeal and revision conferred by the Code of Criminal Procedure, 1973 on a High Court as if the Court of Special Judge was a Court of Session trying cases within the local limits of the High Court.

2 of 1974.

Protection of witnesses and reporting persons.

13. (1) The Central Government shall take appropriate steps to provide effective protection from potential retaliation or intimidation to witnesses, reporting persons and experts who give testimony concerning offences established under the Act and to their relatives.

(2) The Central Government shall establish procedures for the physical protection of such witnesses and reporting persons and for non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons.

(3) The provisions of the sub-sections (1) and (2) shall also apply to victims in so far as they are witnesses.

(4) In cases of extortion bribe, if the bribe giver files a complaint, he shall be protected under this clause as a whistleblower:

Provided that this protection shall not be made available in case of speed money.

Prevention of bribery by commercial entity.

14. (1) The commercial entities shall make adequate procedures, as may be prescribed, designed to prevent persons associated with it from undertaking bribery.

(2) The procedures shall provide for commercial entities to establish and ensure the effectiveness of internal controls, ethics and compliance measures for preventing and detecting bribery and shall *inter alia*, include,—

(i) a clearly articulated and visible policy prohibiting bribery;

(ii) instructions for strict compliance with the policy at all levels of the entity;

(iii) appropriate disciplinary procedures to address violation of the procedures at all levels of the entity;

(iv) setting up of independent monitoring body;

(v) oversight of ethics and compliance measures and reporting to the independent monitoring body;

(vi) ensuring applicability of the policy and procedures to third parties such as agents, intermediaries, consultants, representatives, distributors, partners, contractors, advisors, suppliers, associates, subsidiaries and joint venture partners and seeking commitment from such third parties to adhere to policy prohibiting bribery;

(vii) measures for periodic communication and training at all levels of the entity of laws against bribery and entity's policy against bribery; and

(viii) putting in place an appropriate whistleblower mechanism including rewards for reporting and protection of the whistleblowers.

Prevention and detection of proceeds of crime.

15. (1) The banks, financial institutions and other financial intermediaries shall take reasonable steps to determine the identity of beneficial owners of funds deposited into the accounts of such customers in such manner as may be prescribed.

(2) The banks, financial institutions and other financial intermediaries shall maintain record of beneficial owners under sub-section (1) and shall provide such information as and when required by the adjudication authorities.

16. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force in relation to any of the matters provided under this Act.

Provision of the Act not in derogation of any other law for the time being in force.

17. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The problem of bribery has assumed alarming proportions. It is estimated that a significant proportion of our Gross Domestic Product is lost on account of this widespread corruption in offices of public and private sector. Therefore, bribery not only hurts the psyche of the people but it also hurts the economic growth. Moreover, the problem is more hurting to the poor as they are the most vulnerable section of the society.

Bribery by the Government officials is only one part of the issue. Bribery is also rampant in private sector. There is dearth of laws to address the issue of bribery in private sector. The Bill seeks to provide a legislative framework to resolve the issue. The Bill also seeks to provide for a witness protection programme to be implemented by the Government.

Hence this Bill.

NEW DELHI;
January 28, 2018.

UDIT RAJ

FINANCIAL MEMORANDUM

Clause 11 of the Bill provides that Central Government shall appoint Special Judges to try the offences under this Act. The Bill, therefore if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one hundred crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees forty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislation power is of a normal character.

BILL NO. 54 OF 2018

A Bill to provide for the protection of women from discrimination, and for the basic facilities like creche, recreational facilities, maternity benefits, hostel and transport facilities, and for the welfare measures to be taken by the employers and the State for the women employees working in Government establishments; public sector enterprises including banks and ports, educational institutions including universities, colleges and schools; factories, mines, plantations, agricultural fields, orchards and such other places and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Working Women (Basic Facilities and Welfare) Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definition.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "child" includes a still born child;

(c) "employer" means,—

(i) in relation to an establishment which is under the control of an appropriate Government, the person or authority appointed by the appropriate Government for the supervision and control of the employees or where no person or authority is so appointed, the head of the establishment;

(ii) in relation to an establishment under any local self-government or authority, the person appointed by such authority or local self-government for the supervision and control of the employees or where no person is so appointed the Chief Executive Officer by whatever name called of the local self-government or the authority, as the case may be;

(iii) in other cases, the person who or the authority which has the ultimate control over the affairs of the establishment;

(d) "establishment" include an office of the appropriate Government, *quasi* Government or department including telegraph office, post office, telephone exchange, a mine, a plantation, an agricultural field, a hospital or nursing home, a shop or any business establishment, a brick kiln, construction site, any banking establishment, any private office or house, any school, college university or like institution, establishment for the exhibition of equestrian, acrobatic and other performances and any other such place where a woman is employed for any work whatsoever;

(e) "factory" means a factory as defined in the Factories Act, 1948;

(f) "industry" means an industry as defined in the Industrial Disputes Act, 1947;

(g) "prescribed" means prescribed by rules made under this Act; and

(h) "working woman" means a woman who is employed whether directly or indirectly through any agency or contractor, as the case may be, for wages in any establishment, factory or industry.

3. It shall be the duty of the appropriate Government to ensure that no discrimination is done by any establishment on gender basis with its women employees particularly in the matter of payment of wages which are paid to her male counterpart in such establishment.

Appropriate Government to ensure non-discrimination and equal wages for working women.

4. (1) Notwithstanding anything contained in any other law for the time being in force, every employer shall provide basic childcare facilities such as milk, tiffin, clothes, toys, trained ayahs and other essential facilities for the children of women working in the establishment.

Employer to have childcare facilities for working women.

(2) The appropriate Government shall ensure that every employer of an agricultural field provide mobile childcare facilities for the working women in his establishment:

Provided that two or more such employers may provide common childcare facilities for their establishments.

(3) The appropriate Government shall open such number of creches at such places as it may deem necessary for carrying out the purposes of this Act.

| | |
|----------------------------------|---|
| Recreational facilities. | 5. The appropriate Government shall ensure that every employer provides retiring rooms with facilities like bathroom, latrine, drinking water at the workplace or worksite of the working women and recreational facilities like radio and television for working women and their children. |
| Security arrangements. | 6. The appropriate Government along with the employer shall provide adequate and proper security measures for the safety of working women in the establishment, factory or industry, as the case may be, well as to and from their places of residence. |
| Maternity facilities. | 7. It shall be the duty of the appropriate Government to ensure reservation of beds and proper and adequate maternity facilities for the working women in the hospitals and dispensaries having indoor patient facilities therein. |
| Hostel and transport facilities. | 8. The appropriate Government as well as an employer shall provide hostel and residential facilities both for married and unmarried working women nearest to their place of work and cheap, safe and quick transport facilities for such working women. |
| Protection from health hazards. | 9. The appropriate Government shall ensure protection from health hazards particularly for the women working in factories or industries like beedi, tobacco, stone mines, cashew, fish processing, salt, silk construction projects and such other establishment as may be prescribed. |
| Register of women working. | 10. (1) The appropriate Government shall maintain a register of working women in such manner and at such place as may be prescribed; (2) The appropriate Government may require an employer to furnish for the purposes of this Act, such statistical and other information, in such form and within such period as may be prescribed. |
| Overriding effect of the Act. | 11. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the working women. |
| Power to make rules. | 12. (1) The Central and State Governments may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each house of Parliament or the Legislative Assembly and the Legislative Council, as the case may be, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both House agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. |

STATEMENT OF OBJECTS AND REASONS

Despite the unabated female foeticides and dwindling population of girls in the country and the conservative attitude of the society towards women, more and more women are venturing out of their houses to work to support their families. As a result, the number of working women in Government services, factories, industries, commercial establishments, agriculture, mines, fish processing sector, silk industry and so on so forth is increasing day by day, but their conditions of employment need amelioration. Various basic and essential facilities which are supposed to be made available to the working women by the Government and private employers are either absent or not adequate and satisfactory. Unfortunately, in most of the private sector including agricultural sector, the facilities are rather minimal or negligible and the working women are an exploited lot there. The existing labour laws also do not provide for proper medical, educational, recreational and other facilities for the working women and their children. As regards, other social security measures like security, transport, accommodation have also not been made so far. In many establishments they are not given equal pay for work. This discrimination has to be stopped.

Hence it has become necessary to provide adequate welfare measures for the working women.

Hence this Bill.

NEW DELHI:
January 28, 2018

UDIT RAJ

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for certain childcare facilities of the working women. Clause 5 provides for recreational facilities for working women and their children, Clause 6 provides that the appropriate Government to provide adequate and proper security measures for the safety of working women. Clause 7 provides for maternity facilities. Clause 8 provides for hostel and transport facilities for the working women. Clause 9 provides for appropriate Government shall ensure protection from health hazards of the working women. The expenditure relating to States shall be borne out of the Consolidated Fund of the State Government concerned. However, the expenditure in relation to Union territories shall be borne out of the Consolidated Fund of India. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two thousand crore may involve as recurring expenditure per annum.

A non-recurring expenditure of rupees five thousand crore is also likely to involve.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will related to matters of details only, the delegation of legislative power is of a normal character.

BILL NO. 38 OF 2018

A Bill to provide for constitution of special courts for women and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Special Courts for Women Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

(a) 'appropriate Government' means in case of a State the Government of that State and in all other cases, the Central Government;

Short title,
extent and
commence-
ment.

Definitions.

(b) 'offence' means any offence committed against a woman including rape, criminal assault, mental injury and sexual harassment at any place or in any form or by any means either physical, verbal or any other way, or any dowry related cases where the sufferer is a woman; and

(c) 'prescribed' means prescribed by rules made under the Act.

Establishment
of special
courts for
women.

3. (1) The appropriate Government shall set up sufficient number of special courts to deal exclusively with matters arising out of atrocities or offences committed against women.

(2) Every special court shall consist of a Principal Judge and such number of other Judges to be appointed by the appropriate Government as it may deem fit.

Qualification
for
appointment
as Principal
Judge and other
Judges of
special court.

4. (1) A person shall not be qualified for appointment as a Principal Judge, unless he,—

(a) is, or has been, a judicial magistrate; or

(b) has, for at least two years, held the office of the Judge of the special court; and has, for at least five years, been associated with women's cause.

(2) A person shall not be qualified for appointment as a Judge, unless he,—

(a) is, or has been, a judicial magistrate; or

(b) has, for a period of not less than five years, been practising law, and has, for at least five years, been associated with women's cause.

(3) Every Principal Judge and other Judges of a special court in a Union territory shall be appointed by the President.

(4) Every Principal Judge and other Judges of a special court in a State shall be appointed by the Governor of the State concerned.

(5) At least half of the total number of Judges of a special court shall be reserved for women.

Senior most
Judge to act as
a Principal
Judge or to
discharge his
functions in
certain
circumstances.

5. (1) In the event of occurrence of any vacancy in the office of the Principal Judge of a special court by reason of his death, resignation or otherwise, the senior most Judge of that court shall act as the Principal Judge until a new Principal Judge, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(2) If the Principal Judge is unable to discharge his functions owing to his absence from duty due to any reason, the senior most Judge of that special court shall discharge the functions of the Principal Judge until the Principal Judge resumes his duties.

Term of Office.

6. Every Principal Judge and other Judges shall hold office for a period of five years from the date on which he enters upon his office or until he attains,—

(a) in the case of the Principal Judge, the age of sixty-five years, and

(b) in the case of any other Judge, the age of sixty years whichever is earlier.

Resignation.

7. Every Principal Judge or a Judge may, by notice in writing under his hand addressed to the President in case he is a Principal Judge or a Judge of a special court in a Union territory or to the Governor, in case he is a Principal Judge or a Judge of a special court in a State, as the case may be, resign from his office:

Provided that the Principal Judge or any other Judge shall, unless he is permitted by the President or the Governor, as the case may be, to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

8. The salaries and allowances payable to and other terms and conditions of service including pension, gratuity and other retirement benefits of the Principal Judge or a Judge of special court shall be such as may be prescribed:

Salary, allowances and other conditions of service of the Principal Judge and other Judges.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Principal Judge or a Judge of a special court shall be varied to his disadvantage after his appointment.

9. Every Principal Judge shall exercise such financial and administrative powers over the special court as may be vested in him in such manner as may be prescribed.

Financial and other powers of the Principal Judge. Staff of the special court.

10. The appropriate Government shall determine and provide categories of the officers and other employees required to assist a special court in the discharge of its functions.

11. Save as otherwise expressly provided in this act, every special court shall exercise all the jurisdiction, powers and authority exercisable immediately before that day by all courts except the concerned High Court and the Supreme Court in relation to all matters of offences or atrocities committed against women under the Indian Penal Code, 1860 or any other law for the time being in force relating to women.

Jurisdiction, power and authority of special courts.

45 of 1860.

12. Every special court constituted under this Act shall have the same powers to hold any inquiry as are vested in a civil court under the Code of Civil Procedure, 1908 and in a criminal court under the Code of Criminal Procedure, 1973.

Powers of special courts.

5 of 1908.

2 of 1974.

13. On the date of coming into force of this Act, the jurisdiction, powers and authority in relation to any offences or crimes or atrocities committed against women, shall be exercisable by a special court and no other court except the High Court concerned and the Supreme Court shall have, or be entitled to exercise any jurisdiction, powers or authority in relation to such offences or crimes or atrocities committed against women.

Exclusion of jurisdiction of cases of special court except the High Court concerned and Supreme Court.

14. Every suit or other proceeding pending before any other court or any authority immediately before the date of coming into force of this Act, being a suit or proceeding the cause of action wherein it is based, is such that it would have been if it had arisen after such constitution, within the jurisdiction of such a special court, shall stand transferred on that date to such special court:

Transfer of pending cases.

Provided that nothing contained in this section shall apply to a suit or other proceedings pending in a High Court or the Supreme Court.

15. The appropriate Government shall make necessary arrangements and provisions for free legal aid to women for meeting the cost of litigation in special courts.

Free legal aid to women.

16. Every case in special court shall be heard on daily basis and disposed of at the earliest but in any case not later than six months from the date of filing of the suit in the court.

Disposal of cases by special courts.

17. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

In our society, atrocities against women are increasing day by day as a result of which cases of atrocities against women are piling up in court. The delay, by courts in disposing of the cases add to the woes of hapless women. By the time the courts give their judgement, the life of the women becomes miserable. Ordinary courts take unduly long time for deciding the cases. Therefore, it is proposed to set up special courts for women to exclusively deal with cases against women expeditiously.

The Bill seeks to achieve the above objectives.

NEW DELHI;
January 31, 2018.

UDIT RAJ

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that every State Government and Union territory administration shall set up sufficient number of special courts to deal exclusively with matters arising out of atrocities committed against women. Clause 8 provides for payment of salaries and allowances to the Principal Judge and other Judges. Clause 10 provides for appointment and provision of officers and staff required for special courts. Clause 15 provides for free legal aid to women. The expenditure in respect of special courts in States will be met out of Consolidated Funds of the respective States. The expenditure in respect of special courts for Union territories shall be met out of the Consolidated Fund of India. It is likely that an amount of rupees one thousand crore will be involved for setting up special courts in Union territories and by way of grants of States per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 77 OF 2018

A Bill to provide for the establishment of a National Agriculture and Farmers Commission for welfare of farmers and comprehensive development of agriculture and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the National Agriculture and Farmers Commission Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "agriculture" includes horticulture, animal husbandry, Forestry, dairy and poultry farming, pisciculture, and other allied activities, whether or not undertaken jointly with agriculture;

(b) "agricultural produce" includes paddy, wheat, coarse cereals, pulses, sugarcane, gram, cotton, oilseeds, vegetables, fruits, jute, coconut, tobacco, areca nuts and such other agricultural produce as may be notified by the Central Government, from time to time;

(c) "Commission" means National Agriculture and Farmers Commission established under section 3;

(d) "farmer" means any person who cultivates land or causes it to be cultivated for agricultural or horticultural purposes;

(e) "Fund" means the Agriculture and Farmers Development Fund constituted under section 6; and

(f) "prescribed" means prescribed by rules made under this Act.

3. (1) The Central Government may, by notification in the Official Gazette, establish a Commission to be known as the National Agriculture and Farmers Commission for carrying out the purposes of this Act.

Establishment
of National
Agriculture
and Farmers
Commission.

(2) The Commission shall consist of—

(a) a Chairperson, having special knowledge in the field of agriculture; and

(b) such number of members including agricultural economist, agriculture scientist and experts in matters related to the farmers, to be appointed by the Central Government in such manner as may be prescribed.

(3) The Central Government shall provide such number of experts, officers and staff to Commission, as may be required for its efficient functioning.

(4) The salary and allowances payable to and other terms and conditions of service of the Chairperson, members, experts and officers and staff of the Commission shall be such as may be prescribed.

4. The Commission shall—

Functions
of the
Commission.

(a) determine the minimum support price of agricultural produce;

(b) maintain the price of agricultural produce at appropriate levels;

(c) issue the executive instructions to various agencies;

(d) monitor the import and export of agricultural produce;

(e) formulate measures for the welfare of farmers from the adverse effects on agriculture;

(f) prepare the national policy, from time to time, to increase the productivity of agriculture produce;

(g) investigate into the incidents of suicide by the farmers;

(h) frame the rules to carry out the provisions of this Act for the welfare of agriculture and farmers;

(i) protect the agricultural bio-diversity;

(j) protect the farmers from the fluctuations in prices of agricultural produce in market;

(k) advice the Central Government in matters related to the farmers and agriculture; and

(l) undertake such other functions as may be assigned to it, from time to time, by the Central Government.

Constitution of the Agriculture and Farmers Development Fund.

5. (1) The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the Agriculture and Farmers Development Fund for carrying out the purposes of this Act.

(2) The Central Government and the State Governments shall contribute to the Fund in such ratio as may be prescribed.

Central Government to provide requisite funds.

6. The Central Government shall provide after due appropriation made by Parliament by law in this behalf, necessary requisite funds, from time to time, for carrying out the purposes of this Act.

Act to have overriding effect.

7. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

STATEMENT OF OBJECTS AND REASONS

In the absence of any firm principle regarding intervention in the market by Government to solve the problems faced by the agricultural sector and the farmers, problems are remaining unchanged as ever. In the current scenario, an autonomous, powerful intervention by Government institutions for the protection of interests of farmers and the agriculture bio-diversity is very essential. Developed countries like European Union, United States of America, Japan etc. provide production subsidy so that innovative domestic initiatives may be taken to protect the farmers from the adverse effects of agriculture related problems. Different Commissions have been set up for different categories in our country, but there is no autonomous, empowered and dedicated Commission for the welfare of the agricultural sector till now despite the fact half of our population is dependent on agriculture which could protect the rights of farmers. The dedicated Commission for agriculture sector welfare of farmers is needed.

Efforts are required to be made to increase the income of farmers. Monitoring in right way is needed to be done by bringing the implementation of crop insurance scheme into the purview of the Commission and farmers be protected from speculative forces like share market and future market. On the lines of SEBI like institution which works for more than three crore share holders, an agriculture regulatory institution is needed for twenty seven crore farmers which may look into the problem of farmers and present their view point before Government effectively.

The Bill, therefore, seeks to establish a National Agriculture and Farmer Commission to introduce new dimensions in the field of agriculture and to work for protection, benefit and welfare of the farmers to bring positive bearing on economic progress of country.

Hence this Bill.

NEW DELHI;
February 1, 2018.

RODMAL NAGAR

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a National Commission for agriculture and Farmers. It also provides that the Central Government shall make available necessary experts, officers and staff for the efficient functioning of the Commission. Clause 6 provides for the constitution of an Agriculture and Farmers Development Fund. Clause 7 provides that the Central Government shall provide requisite funds to the Commission for carrying out the provisions of this Act. The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees five hundred crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 37 OF 2018

A Bill to provide for maintenance and welfare measures to be undertaken by the State for the divorcee women or separated women and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Divorcee Women Welfare Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) "Advisory Committee" means the Divorcee Women Welfare Advisory Committee constituted under section 3;

Short title,
extent and
commencement.

Definitions.

(b) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(c) "divorcee woman" means a woman whose marriage has been dissolved under section 13 of the Hindu Marriage Act, 1955 or under sections 27 and 28 of the Special Marriage Act, 1954 or under section 10 of the Indian Divorcee Act, 1869 or under Muslim Personal Law or on any other ground on which she has been separated from her husband and who has no relative to support her or who has no independent source of livelihood including her minor children dependent on her; 25 of 1955
43 of 1954
4 of 1869

(d) "Fund" means the Divorcee Women Welfare Fund constituted under section 5; and

(e) "prescribed" means prescribed by rules made under this Act.

Constitution
of the
Advisory
Committee.

3. (1) The appropriate Government shall, by notification in the official Gazette, constitute a Divorcee Women Welfare Advisory Committee in each district within its jurisdiction for the purposes of performing functions as assigned to under this Act.

(2) The District Collector shall be the *ex-officio* Chairperson of the Advisory Committee and other members shall be nominated by the appropriate Government in such manner as may be prescribed.

(3) Each Advisory Committee shall consist of such number of members and the representatives of the organisations which are working for upliftment of destitute and helpless women of the society, to be appointed by the appropriate Government in such manner as may be prescribed.

Functions of
Advisory
Committee.

4. The Advisory Committee shall—

(i) promote the welfare measures for the divorcee women;

(ii) examine the eligibility of the divorcee woman and recommend to the appropriate Government to provide facilities to her under this Act;

(iii) give wide publicity through the electronic and print media about the welfare measures provided under this Act; and

(iv) perform such other functions not inconsistent with the provisions of this Act as may be assigned to it by the appropriate Government, from time to time.

Constitution
of Divorcee
Women
Welfare Fund.

5. (1) The Central Government shall, after due appropriation made by Parliament in this behalf, constitute a fund to be called the Divorcee Women Welfare Fund for the purpose of undertaking welfare measures and providing facilities to divorcee women.

(2) The Central Government and the State Governments shall contribute adequate funds to the Fund, from time to time, in such proportions as may be prescribed for carrying out the purposes of this Act.

Facilities to
the Divorcee
Women.

6. The appropriate Government shall on the recommendations of the Advisory Committee provide the women covered under this Act, the following facilities, namely:—

(a) monthly allowance to lead a minimum standard of living;

(b) residential accommodation free of cost;

(c) free education including technical education to dependent children;

(d) free medical aid;

(e) gainful employment;

(f) free vocational education wherever necessary;

(g) such other facilities, as may be necessary for her rehabilitation, proper development and for maintaining a respectable life in the society:

Provided that if any woman covered under this Act either gets gainful employment or remarries, all the facilities provided to her and to her dependent children in accordance with the provisions of this Act, shall be withdrawn from the date she gets the gainful employment or remarries, as the case may be.

7. (1) The Central Government may by notification in the Official Gazette make rules for carrying out the purposes of the Act. Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

In our country there is great disparity between the economic ramifications of divorce between men and women. Men remain relatively unaffected while women, especially those with children, face difficulty in "providing food, clothing and shelter for themselves and their children". Often a woman is not able to rely on her family for support because many parents feel they have discharged their obligations to a daughter by arranging her marriage and providing dowry. Dowries are not returned after divorce. Also, due to the social stigma of divorce, women find it difficult to remarry and usually attempt to establish an independent household.

While one should have the right to divorce, it is still a highly stigmatizing action. Women are looked upon more harshly than men in this regard. There continue to be segments of Indian society that feel divorce is never an option, regardless of how abusive or adulterous the husband may be which adds to the greater disapproval for women. A divorced woman will often return to her parents family, but may not be whole heartedly welcomed. She puts, especially if she has children, an economic burden on her family and is often given lowly household tasks to perform. There is also the risk that a divorced woman's presence would ward off possible marriages for other daughters within the household. Unavoidably, the overall status of the family and household is lowered by having a divorcee living with them. A woman's class and caste are a major factor in her acceptance back into society. Women from higher classes tend to have an easier time than middle or lower class women in returning to the social order after a divorce. An exception to this model is the extreme bottom of the society who have experienced little rebuff from peers after a divorce. This results from their already a typical status in society.

As is well known among the poor who form the majority of the population—families are in no position to support even unmarried daughters or sisters. Exposures of questionable 'marriages' of young girls to foreign tourists, by poor families, of continued 'sale' of young women of different communities, and the high incidence of suicides, and destitution among poor women after divorce, provide substantial evidence of the inability of their parents or other relatives to provide maintenance.

More impracticable, unrealistic and unjust is the expectation that a divorced woman will sue her parents and other relatives to obtain maintenance. It is an unfortunate fact of life that the inheritance right of daughters to their fathers' property generally remain unimplemented because most women find it inadvisable to sue their brothers. Field research provides ample evidence that widowed, divorced or desterted women dependent on their parental families find their lives unbearable, particularly after the death of the parents. Also social research among poor women of all communities, has already identified growing irresponsibility of husbands and fathers as a serious problem. The question also needs to be asked—why should the brother shoulder the responsibility, while the husbands, responsible (in the majority of cases) for the act of divorce are absolved of all responsibility. Moreover the position of a divorcee woman is more awful in rural areas because of being illiterate due to the conservative attitude of villagers, they are exploited to the extent possible.

Ours being a welfare State, it is expedient to liberate the divorcee women from exploitation by providing them financial assistance and other necessary facilities so that they live honorably in the society. For this purpose Divorcee Woman Welfare Fund should be constituted to ensure that life of no divorcee woman will become so miserable due to poverty which may enable the unscrupulous elements of the society to exploit the situation and make their lives disgraceful in the society.

Hence this Bill.

NEW DELHI;
February 1, 2018.

UDIT RAJ

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of Divorcee Women Welfare Advisory Committee by the appropriate Government. Clause 5 provides for constitution of the Divorcee Welfare Fund. It also provides that the Central Government shall contribute to the Divorcee Women Welfare Fund. Clause 6 provides for various facilities to the divorcee women. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty crore may involve as recurring expenditure from the Consolidated Fund of India.

A non-recurring expenditure of rupees hundred crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to make rules for carrying out the purpose of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 57 OF 2018

A Bill to provide punishment for torture inflicted by public servants or any person inflicting torture with the consent or acquiescence of any public servant, and for matters connected herewith or incidental thereto.

WHEREAS India is a signatory to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

AND WHEREAS it is considered necessary to ratify the said Convention and to provide for more effective implementation.

BE it enacted by the Parliament in the Sixty-ninth Year of the Republic of India as follow:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Prevention of Torture Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

45 of 1860.

(a) words and expressions used but not defined in this Act shall have the same meanings respectively as assigned to them in the Indian Penal Code, 1860; and

(b) any reference in this Act to any enactment or any provision thereof shall in any area in which such enactment or provision is not in force be construed as a reference to the corresponding law or the relevant provision of the corresponding law if any, in force in that area.

3. Whoever, being a public servant or being abetted by a public servant or with the consent or acquiescence of a public servant, intentionally does any act for the purposes to punish or to obtain information from any person, whether in police custody or otherwise, which causes,—

Torture.

(i) grievous hurt to any person; or

(ii) danger to life, limb or health (whether mental or physical) of any person, is said to inflict torture:

Provided that nothing contained in this section shall apply to any pain, hurt or danger as aforementioned caused by any act, which is inflicted in accordance with any procedure established by law.

45 of 1860.

Explanation.—For the purposes of this section, ‘public servant’ shall, without prejudice to section 21 of the Indian Penal Code, 1860, also include any person acting in his official capacity under the Central Government or the State Government.

4. Where the public servant referred to in section 3 or any person abetted by or with the consent or acquiescence of such public servant, tortures any person—

Punishment
for torture.

(a) for the purpose of extorting from him or any other person interested in him, any confession or any information which may lead to the detection of an offence or misconduct;

(b) for the purpose of punishing him for any act; or

(c) on the ground of his religion, race, place of birth, residence, language, caste or community or any other ground whatsoever,

shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to ten years and shall also be liable to fine.

STATEMENT OF OBJECTS AND REASONS

India signed the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (as adopted by the United Nations General Assembly on 9th December, 1975) on 14th October, 1997. To ratify the Convention, it is necessary to enact any enabling legislation to reflect the definition and punishment for “torture”, and bring domestic laws in conformity with the Convention.

2. The proposed legislation, *inter alia*, defines the expression “torture”, and provides punishment for those involved in the incidents of torture.

3. The legislation fulfils India’s commitment, as confirmed to the United Nations, to reaffirm that “torture and other cruel, inhuman or degrading treatment or punishment are prohibited and constitute serious violations of human rights.”

4. According to the National Crime Records Bureau, as many as 308 people died in police custody between 2011 and 2013 but less than forty per cent of these deaths led to a case being registered. By providing punishment for the violation of these human rights, the legislation strengthens the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment.

5. Out of 170 signatories to the United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, India remains one of the only eight countries yet to ratify the Convention. Ratifying the Convention reaffirms the Government of India’s commitment to the protection of basic universal human rights.

6. The One Hundred and Fifty Second Report of the Law Commission on ‘Custodial Crimes’ (1994) had also recommended changes to the law to prevent custodial crimes, including torture.

7. The Supreme Court, in 2017, observed that India’s efforts to extradite suspects from abroad are impeded due to the fact that India does not have an anti-torture law. The legislation, once enacted, will expedite India’s extradition attempts and the due process of law.

8. The Bill seeks to achieve the above objects.

NEW DELHI;
February 9, 2018.

OM PRAKASH YADAV

BILL NO. 51 OF 2018

A Bill to provide punishment for enforced disappearance of any person by public servants or any person subjecting a person to an enforced disappearance with the consent or acquiescence of any public servant and for matters connected therewith or incidental thereto.

WHEREAS India is a signatory to the United Nations International Convention for the Protection of All Persons from Enforced Disappearance:

AND WHEREAS it is considered necessary to ratify the said Convention and to provide for more effective implementation.

BE it enacted by the Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Enforced Disappearance Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) words and expressions used but not defined shall have the same meanings respectively assigned to them in the Indian Penal Code, 1860; and

45 of 1860

(b) any reference to any enactment or any provision thereof shall in any area in which such enactment or provision is not in force be construed as a reference to the corresponding law or the relevant provision of the corresponding law if any, in force in that area.

Enforced
disappearance.

3. Whoever, being a public servant or being abetted by a public servant or with the consent or acquiescence of a public servant, intentionally does any act which deprives any person of his liberty, including arrest, detention, or abduction, which is followed by a refusal to acknowledge such deprivation of liberty or concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law is said to effect an enforced disappearance:

Provided that nothing contained in this section shall apply to any deprivation of liberty or arrest or detention as aforementioned caused by any act, which is inflicted in accordance with any procedure established by law.

Explanation.—For the purposes of this section, ‘public servant’ shall, without prejudice to section 21 of the Indian Penal Code, also include any person acting in his official capacity under the Central Government or the State Government.

45 of 1860

Punishment for
enforced
disappearance.

4. Where the public servant referred to in section 3 or any person abetted by or with the consent or acquiescence of such public servant, subjects a person to enforced disappearance for whatever purpose, shall be punishable with imprisonment of either description for a term which shall not be less than three years but which may extend up to ten years and shall also be liable to fine.

Punishment for
disregarding
information of
an enforced
disappearance.

5. Whoever, being a public servant, was aware of or consciously disregarded information of any enforced disappearance effected by subordinates under his effective authority, and failed to submit the matter to the competent authority for investigation and prosecution, shall be punishable for a term which shall not be less than one year but which may extend up to ten years and shall also be liable to fine.

STATEMENT OF OBJECTS AND REASONS

India signed the International Convention for the Protection of All Persons from Enforced Disappearance (as drafted by the United Nations General Assembly on 29th June, 2006) on 6th February, 2007. To ratify the Convention, it is necessary to enable legislation to reflect the definition and punishment for “enforced disappearance”, and bring domestic laws in conformity with the Convention.

2. The legislation fulfils India's commitment to the United Nations to the Universal Declaration of Human Rights and to a legal system that offers remedies for human rights violations by the State.

3. Enforced disappearances are human rights violations which not only cause an unlawful deprivation of liberty of the individual, but cause psychological, economic and social distress to the families of the “disappeared” individual who are unaware of the fate of the person. The legislation recognises, as in the Convention, the “right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person, and the right to freedom to seek, receive and impart information to this end.”

4. India's history is marred with violations of human rights and enforced disappearances. A Human Rights Watch report in 2007 noted the revelation of 6,000 secret cremations by the police in just one of the erstwhile districts of Punjab. A report by Association of the Parents of Disappeared Persons indicated that more than 8,000 people have gone missing under suspicious circumstances in Jammu and Kashmir between 1989 and 2008. As regularly reported, the incidents are not limited to disturbed areas but affect people of all ages and professions in the States of Andhra Pradesh, Gujarat, Maharashtra, Uttar Pradesh, Bihar, Rajasthan and Odisha. It is necessary to enable legislation that prevents future enforced disappearances, and protects the citizens from such crimes.

5. The proposed legislation, *inter alia*, defines the expression “enforced disappearance”, and provides punishment for those involved in subjecting an individual to an enforced disappearance.

6. The Bill seeks to achieve the above objects.

NEW DELHI;
February 9, 2018.

OM PRAKASH YADAV

BILL NO. 81 OF 2018

A Bill to promote conception, experimentation and implementation of educational innovations in the country by establishing the Educational Innovations Commission and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Educational Innovations Commission Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(i) "Chairperson" means the Chairperson of the Commission;

(ii) "Commission" means the Educational Innovations Commission established under section 3;

- (iii) "Committee" means a Committee appointed under section 23;
- (iv) "Council" means a Council constituted under section 22;
- (v) "Executive Chairperson" means the Executive Chairperson of the Commission;
- (vi) "Fellow" means a person duly appointed as a fellow of the Commission under section 24;
- (vii) "Fund" means the Fund of the Commission established under section 18;
- (viii) "Member" means a Member of the Commission nominated or appointed under sub-section (3) of section 5;
- (ix) "prescribed" means prescribed by rules made under this Act;
- (x) "regulations" means regulations made under section 33; and
- (xi) "Vice-Chairperson" means the Vice-Chairperson of the Commission.

CHAPTER II

ESTABLISHMENT, INCORPORATION AND COMPOSITION OF INDIA EDUCATIONAL INNOVATIONS COMMISSION

3. (1) For the purpose of promoting conception, experimentation and implementation of educational innovations in the country, the Central Government shall, by notification in the Official Gazette, establish a Commission by the name of the Educational Innovations Commission with effect from such date as may be specified in the notification.

Establishment
of
Commission.

(2) The Commission shall be a body corporate with perpetual succession and common seal and may sue or be sued in its corporate name and shall, subject to the provisions of this Act, be competent to acquire, hold and dispose of property, both movable and immovable, and to contract and do all things necessary for the purposes of this Act.

4. The headquarters of the Commission shall be at Delhi or at such other place, as the Central Government may, by notification in the Official Gazette, specify.

Headquarters
of
Commission.

5. (1) The Commission shall consist of the Chairperson and twelve other members, namely:—

Composition
of
Commission.

- (a) the Prime Minister of India, *ex-officio* Chairperson;
- (b) the Minister of Human Resource Development, *ex-officio* Vice-Chairperson;
- (c) the Executive Chairperson nominated under sub-section (2);
- (d) the Secretary to the Government of India, Ministry of Human Resource Development, *ex-officio* member;
- (e) the Secretary to the Government of India, Ministry of Finance, *ex-officio* member;
- (f) the Additional Secretary to the Government of India, Ministry of Human Resource Development, Department of Higher Education, *ex-officio* member;
- (g) the Vice-Chancellor of a University, by rotation in such manner as may be prescribed from amongst the Vice-Chancellors of Central Universities, *ex-officio* member;
- (h) the Chairman of the Central Board of Secondary Education, *ex-officio* member;
- (i) the Director, National Council of Educational Research and Training, *ex-officio* member;
- (j) one Member for innovation in science, technology and vocational courses;

(*k*) one Member for innovations in programmes relating to humanities, art, craft and other cultural courses and value-oriented education;

(*l*) one Member for innovations in pedagogical methods including those related to curriculum, evaluation and teaching-learning aids;

(*m*) one Member for innovations in physical education including courses related to gymnastics, aquatics, athletics, combatives, Indian and universal games, Yogic (physical and psychological) exercise, health, Scouts and Guides, National Cadet Corps and National Service Scheme programmes.

(2) The Executive Chairperson referred to in sub-clause (*c*) of sub-section (*1*) shall be nominated by the Chairperson from a panel of three persons recommended by the Search Committee appointed under section 7:

Provided that the first Executive Chairperson shall be nominated for a period of two years.

(3) Each Member referred to in clauses (*j*) to (*m*) of sub-section (*1*) shall be nominated by the Central Government from a panel of three persons recommended by Search Committee appointed under section 7:

Provided that the first appointment of the Members referred to in this sub-section, shall be made by the Chairperson on the recommendation of the Executive Chairperson from amongst such persons as he thinks fit.

Qualifications
of Executive
Chairperson
and of
Members.

6. (*1*) A person to be nominated as an Executive Chairperson under sub-section (*2*) of section 5, shall,

(*a*) be a citizen of India;

(*b*) be a renowned educationist, devoted to educational reforms and innovations;

(*c*) have proven record of reforms and innovations;

(*d*) have actual experience in experimentation and implementation of reforms and innovations;

(*e*) be well versed in the educational philosophy of—

(*i*) pioneering educationist of India, and

(*ii*) leading pioneers of educational innovations in the world; and

(*f*) have sound knowledge of Indian and universal culture.

(2) A person to be nominated as a Member under sub-section (*3*) of section 5, shall:—

(*a*) be a citizen of India;

(*b*) be a renowned educationist, devoted to educational reforms and innovations;

(*c*) have proven record of reforms and innovations in the relevant fields of sciences, technology, vocational courses, humanities, arts, crafts and other cultural courses and value oriented courses, pedagogical courses and methods, physical education, yoga, health, Scouts and Guides, National Cadet Corps and National Service Scheme programmes;

(*d*) have actual experience in experimentation and implementation of reforms and innovations;

(*e*) be well versed in the educational philosophy of—

(*i*) pioneering educationist of India, and

(*ii*) leading pioneers of educational innovations in the world; and

(*f*) have sound knowledge of Indian and universal culture.

7. (1) For the purpose of nomination of Executive Chairperson and Members under sub-sections (2) and (3) of section 5, the Central Government shall appoint a Search Committee consisting of three persons who, in the opinion of the Central Government, are eminent educationists having wide knowledge of educational reforms and innovations and are of high repute and integrity.

Search Committee.

(2) The Central Government shall designate one of these persons as the Chairperson of the Committee.

(3) The Search Committee shall follow such procedure as may be prescribed.

(4) A member of the Search Committee shall not be entitled to receive any compensation for his service but shall be reimbursed for the travelling and other expenses incurred by him in discharge of his duties.

(5) The expenses referred to in sub-section (4) shall be paid out of the Fund.

8. (1) The term of office of Members, other than *ex-officio* members, who are appointed on the recommendation of the Executive Chairperson, shall be two years from the date of their nomination.

Terms and conditions of office of Executive Chairperson and of Members other than *ex-officio* members.

(2) The term of office of the Executive Chairperson and Members, other than *ex-officio* members, who are nominated on the recommendation of Search Committee, shall be five years from the date of their nomination.

(3) The term of office of an *ex-officio* member shall continue so long as he holds office by virtue of which he is such a member.

(4) The terms and conditions of office of the Executive Chairperson and the Members other than *ex-officio* members shall be such as may be prescribed.

(5) The Executive Chairperson and the Members sub-section shall be whole time salaried persons.

(6) The salaries and other emoluments of—

(i) the Executive Chairperson shall not be less than that of the Secretary to the Government of India; and

(ii) the Members other than *ex-officio* members shall not be less than that of the Additional Secretary to the Government of India.

9. (1) On occurrence of any vacancy in the office of the Executive Chairperson due to death, resignation or any other reason, the same shall be filled in by the Chairperson by nominating a person in the manner provided in section 5.

Filling up of vacancies.

(2) On occurrence of any vacancy in the office of the Members due to death, resignation or any other reasons, the same shall be filled in by the Central Government by appointing or, as the case may be, nominating a person in the manner provided in section 5.

10. A person shall be disqualified for being appointed or nominated or being an Executive Chairperson or a Member of the Commission if such person,—

Disqualifications.

(a) is, or any time, being adjudged insolvent;

(b) is of unsound mind and stands so declared by the competent court;

(c) is or has been convicted of any offence which, in the opinion of the Central Government, involves normal turpitude; or

(d) has, either directly or indirectly, any financial or other interest which is likely to affect prejudicially his functioning.

11. (1) Notwithstanding anything contained in sub-section (1) of section 8, the Chairperson or, as the case may be, the Central Government may, at any time, remove the Executive Chairperson or any Member from office if, in its opinion, such Executive Chairperson

Removal and resignation of Executive Chairperson and Member.

or a Member,—

(a) is, or has become subject to any the disqualifications mentioned in section 10;

(b) has been guilty of misconduct in discharge of his duties;

(c) has become physically or mentally incapable of discharging duties as an Executive Chairperson or member;

(d) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(e) has, without reasonable cause, refused or failed to perform his duties for a period of not less than three months:

Provided that the Executive Chairperson or a Member shall not be removed from his office unless an opportunity of being heard is given.

(2) The Executive Chairperson may, by writing under his hand addressed to the Chairperson resign his office.

(3) Any Member, who is appointed, may, by writing under this hand addressed to the Chairperson, resign his office.

(4) Any Member, who is nominated may, by writing under his hand addressed to the Central Government, resign his office.

Meetings of
Commission.

12. (1) The Commission shall meet at such time and at such place and shall, subject to sub-sections (2) to, observe such rules of procedure with regard to transaction of its business at the meetings as may be provided by regulations:

Provided that the Commission shall meet at least once in every month.

(2) If the Chairperson, for any reason, is unable to attend any meeting, the Vice-Chairperson or in his absence, the Executive Chairperson shall preside over the meeting of the Commission.

(3) All questions at a meeting of the Commission shall be decided by a majority of votes of the members present and voting, and in case when there is an equality of votes, the Chairperson or in his absence, the Vice-Chairperson or in his absence, the Executive Chairperson shall have and exercise a second or casting vote.

(4) The quorum at the meeting of the Commission shall not be less than three.

Officers and
employees of
Commission.

13. (1) The Commission, in order to enable it to perform its functions, may—

(a) with the approval of the Central Government.—

(i) appoint a Secretary, and

(ii) determine such number and category of other officers and employees, and

(b) appoint other officers and employees so determind.

(2) The manner of recruitment of, the salary and allowances payable to, and other conditions of service of the Secretary, officers and other employees, shall be such as may be determined by the Commission by regulations.

Acts and
proceedings
presumed to
be valid.

14. (1) No act or proceeding of the Commission shall be questioned or be invalid on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Commission.

(2) No act done by any person acting in good faith as an Executive Chairpersons or a member shall be deemed to be invalid merely on the ground that he was disqualified to be an Executive Chairperson or a member or that there was any other defect in his appointment or nomination.

CHAPTER III

OBJECTS, FUNCTIONS AND POWERS OF COMMISSION

15. The objectives of the Commission shall be as follows,—

Objects of
Commission.

(a) to conceive, experiment upon and implement such innovative proposals in the field of education and learning as would transform the objective, contents and methods of education in the light of the vision of great pioneers and educationists of freedom movement in the country and of progressive educationists of the world and in light of the needs of the contemporary world in its march towards a future that would be in harmony with the ideals of liberty, equality and fraternity;

(b) to introduce and nurture innovations in the educational system so as to reflect perennial spiritual knowledge of the country, robust intellectuality and creativity and the ideals of man-making education, integral development of personality, synthesis of scientific realism and artistic imagination, child-centered education, value-oriented education and skill-oriented education;

(c) to study and derive lessons from the ongoing experiments in education that are taking place in the country as also elsewhere and to foster all the valuable innovative work and promote the same for larger expansion and utilization;

(d) to develop a system of education that reflects the highest ideals of Indian culture and imparts among students vibrant spirit of patriotism and deepest concern for the highest welfare of humanity, world peace and world unity;

(e) to evolve, in particular, programmes and methods of studies that would instill, among students and promote in various sectors of the educational system, devotion to the duties enumerated in article 51A of the Constitution;

(f) to promote, sustain and foster all innovative programmes related to the entire human life-style including earliest stages of pre-natal care and scaling up to the highest levels of excellence and leadership contributing to the growth of the individual, covering thus the entire gamut of the educational system appropriate to a knowledge society and the ideal of unending education.

16. (1) Subject to the provisions of this Act, the Commission shall conceive, experiment upon and implement such innovative proposals in the field of education and learning as would transform the objectives, contents and methods of education so as to promote the objectives of the Commission.

Functions of
Commission.

(2) In particular and without prejudice to the generality of the foregoing function, the Commission shall perform the following functions, namely:—

(i) to promote experimentation, designing and development of the contents of learning which would inspire pupils to foster the over-arching aims of education to be achieved by the Commission;

(ii) to promote, explore and invent new methods of pedagogy and evaluation so as to make the learning process interesting, instructive, experimental and practical;

(iii) to experiment upon the contents and methods of learning at its own innovative institutions or innovative institutions selected by it from those existing;

(iv) to promote and recommend, on the basis of results of its experiments carried out on its own innovative institutions or innovative institutions selected by it as are found by it to be appropriate to achieve the objectives of the Commission;

(v) to establish institutions (including institutions for education and training of teachers) for experimentation and implementation of the educational innovations promoted, explored and invented by it and for education and training of teachers for that purpose;

(vi) to recognise as a recognised institution, any institution for experimentation and implementation of the educational innovations recommended by it and for education and training of teachers for that purpose;

(vii) to withdraw recognition of an institution for breach of conditions of recognition after giving it an opportunity of being heard;

(viii) to establish teachers' education and training institutions of innovative education and to provide for education and training of teachers for implementation of educational innovations recommended by them;

(ix) to experiment, promote and develop the courses which facilitate students to switch over from existing system of education to the innovative system of education developed by it;

(x) to promote innovations in evaluations and to establish appropriate testing service;

(xi) to support innovations in schools and Universities and educational institutions of research, experimentation, training and extension services;

(xii) to evolve programmes of innovations in regard to the aims, methods and contents of education;

(xiii) to endeavour to enrich the present system of education so as to make it more responsive to the ideals of Indian Nationalism and Internationalism;

(xiv) to develop new system of education as supplementary or alternative to existing system of education;

(xv) to perform such other functions as are necessary for, and conducive to, the promotion of the objectives of the Commission.

Powers of
Commission.

17. (1) The Commission shall have the power to do all such things as are necessary for, and conducive to, the efficient performance of its functions under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Commission shall have following powers, namely:—

(i) to carry out research in aims and contents of education and methods of pedagogy and evaluation;

(ii) to institute fellowships and scholarships for carrying out research in aims and contents of education and methods of pedagogy and evaluation;

(iii) to organize workshops, conferences, symposia and such other meetings to elicit ideas for educational innovations;

(iv) to have access to all the materials, including books, manuscripts, lithographs, inscriptions on walls of ancient buildings and such other places, which are available with, or is in possession of, any authority established, by or under any law within the country and is relevant to the aims and contents of education and methods of pedagogy and evaluation;

(v) to recognize or establish and conduct innovative institutions of education with special provision for innovative aims, contents and methods of teaching, learning and evaluation;

(vi) to aim at excellence in the innovative system of education;

(vii) to grant to the students of that system, certificates equivalent to the certificates granted by the established system of education at the appropriate level;

(viii) to determine standards of courses proposed or supported by it under its functions related to innovations;

- (ix) to allocate and disburse grants out of the fund—
- (a) for its innovations and for innovations in other institutions;
 - (b) to institutions and courses (including institutions and courses for teachers' education and training) recognized by it for the purpose of developing them so as to promote experimentation and implementation of educational innovations;
 - (c) for grant of fellowships and scholarships to carry out research in areas relevant to the aims and objects of the Commission;
- (x) to appoint Secretary and other officers and employees;
- (xi) to constitute council as mentioned in section 22;
- (xii) to temporarily associate persons with the Commission;
- (xiii) to appoint committees for performing its functions and exercising its powers;
- (xiv) to consult and obtain concurrence of the various bodies in respect of recognition and accreditation granted by the statutory boards and Universities for the purpose of arriving at equivalence of the courses, programmes and evaluation system established by it with the existing standards of education;
- (xv) to conduct the processes of the consultation in the spirit of cooperation and flexibility and to enhance and encourage innovations by transcending the barriers of rigidity and obsolete methodologies;
- (xvi) to promote the spirit of decentralisation, freedom of initiative and strictness in regard to discipline and maintenance of high standards; and
- (xvii) to collaborate, to negotiate and to arrive at agreements and arrangements with the Government, as also with schools, Universities, centers and institutions (including autonomous institutions).

CHAPTER IV

FINANCE, ACCOUNTS, AUDIT AND ANNUAL REPORT OF COMMISSION

18. (1) The Commission shall have its own fund and all receipts of the Commission shall be carried thereto and all payments by the Commission shall be made therefrom. Fund of Commission.

(2) The Central Government may, after due appropriation made by Parliament by law in this behalf, grant to the Commission such sums of money as it may consider necessary.

(3) The Commission may accept grants, subventions, donations and gifts from a local authority or any individual or body, whether incorporated or not, for the purposes of this Act.

(4) The Commission may spend such sums as it thinks fit for the performance of its functions under this Act and such sums shall be treated as an expenditure payable out of the fund of the Commission.

(5) All moneys belonging to the fund of the Commission shall be kept in any corresponding new Bank specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, and in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 and approved by the Central Government for the purpose or invested in securities authorised by the Trusts Act, 1882, at the discretion of the Commission.

5 of 1970.

40 of 1980.
2 of 1982.

19. (1) The Commission shall, by such date in each year as may be prescribed submit to the Central Government for approval a budget in the prescribed form for the next financial year showing the estimated receipts and expenditure and the sums which would be required from the Central Government during the financial year. Budget.

(2) If any sum granted by the Central Government remains wholly or partly unspent in any financial year, the unspent sum may be carried forward to the next financial year and taken into account in determining the sum to be provided by the Central Government for that year.

(3) No sum shall be expended by or on behalf of the Commission unless the expenditure is covered by provision in the budget approved by the Central Government.

Accounts and
Audit.

20. (1) The accounts of the Commission shall be prepared and maintained in such form and in such manner as may be prescribed.

(2) The Commission shall cause to be prepared for each financial year an annual statement of accounts in such form as may be prescribed.

(3) The accounts of the Commission shall be audited by an auditor duly qualified to act as an auditor of companies under section 141 of the Companies Act, 2013 and appointed by the Commission. 18 of 2013.

(4) Every auditor appointed to audit the accounts of the Commission under this Act shall have a right to demand the production of books of accounts, connected vouchers and other documents and papers, to inspect the offices of the Commission and to require such information from the Commission as he may think necessary for the performance of his duty as an auditor.

(5) The auditor shall send a copy of his report together with a copy of audited accounts to the Commission which shall, as soon as may be after the receipt of the audit report, forward the same to the Central Government.

(6) The Central Government shall, as soon as may be after the receipt of audit report under sub-section (5), cause the same to be laid before both Houses of Parliament.

Annual
report.

21. (1) The Commission shall, during each financial year, prepare, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous financial year and copies of such report shall be forwarded to the Central Government.

(2) The Central Government shall cause every such report to be laid before both Houses of Parliament within a period of six months from the date of its receipt under sub-section (1).

CHAPTER V

EDUCATIONAL INNOVATIONS COUNCILS, COMMITTEES AND FELLOWS

Constitution
of Educational
Innovations
Councils.

22. (1) There shall be constituted by the Commission, four Educational Innovations Councils as follows, namely:—

(i) a Council for innovations in programmes relating to science, technology and vocational courses;

(ii) a Council for innovations in programmes relating to languages, humanities, value-oriented education, socially useful work, art, craft and other cultural courses such as music, drama, dance;

(iii) a Council for innovations in pedagogical methods;

(iv) a Council for innovations in physical education.

(2) Each Council shall consist of the Executive Chairperson who shall be the Chairperson of that Council.

(3) The member referred to in clauses (j), (k) and (m) of sub-section (1) of section 5 shall respectively be the member-secretary of the Councils referred to in clauses (i), (ii), (iii) and (iv) of sub-section (1).

(4) Each Council shall consist of four scholars to be nominated by the Commission as members and shall be selected in such manner as may be prescribed by regulations from amongst eminent educationalists in the subjects of innovations for which the Council is constituted.

(5) The Council shall meet at such time and place and shall observe such rules of procedure with regard to transaction of its business at the meetings as may be prescribed by regulations.

(6) The Council shall perform such other functions and exercise such powers as may be prescribed by regulations.

23. (1) The Commission may appoint one or more Committees consisting of not more than five of its members or members of a Council or both, for performing such of the functions or for exercising such of its powers as may be delegated by it.

Appointment of committees and delegation of functions and powers.

(2) The Commission shall, while appointing a Committee under sub-section (1), designate one member of the Committee as the Chairperson of the Committee.

(3) The Committee shall meet at such time and place, and shall observe such rules of procedure with regard to transaction of its business at the meeting as may be determined by it.

24. (1) For the purpose of carrying out research in educational innovations, there shall be a scheme of fellowships which shall consist of not more than twenty-five fellows.

Fellows.

(2) Each fellow shall be selected by a committee appointed by the Commission for that purpose, from amongst eminent educationists.

(3) Each fellow shall,—

(a) carry out research in such subject related to educational innovations as assigned to him by the Commission;

(b) for the purpose of research in the subject assigned to him, organise, consultation groups, seminars, workshops and conferences;

(c) during his term, write a thesis on the subject assigned to him; and

(d) make himself available to the Commission for any consultation necessary in respect of the subject of research or thesis assigned to him.

(4) The term of each fellow shall be one year:

Provided that where the Commission is of opinion that in order to enable the fellow to complete his research or thesis, it is necessary so to do, it may extend his term for a period not more than one year.

(5) The salary and allowances payable to a fellow shall be such as may be determined by the Commission by regulations.

CHAPTER VI

MISCELLANEOUS

25. (1) The Commission may associate with itself in such manner and for such purpose, as may be determined by the regulations, any person whose assistance or advice it may require in performance of its functions.

Temporary associations of persons with Commission or Council.

(2) A person associated by the Commission with it under Sub-section (1) shall have the right to speak in or otherwise to take part in the meetings of the Commission but shall not have the right to vote thereat.

(3) The Commission may provide for payment of such allowances and expenses to a person associated with it under sub-section clause (1) as may be determined by regulations.

(4) The Council may associate with itself in such manner and for such purpose, as may be determined by the regulations, any person whose assistance or advice it may require in performance of its functions.

(5) A person associated by the Council with it under sub-section (1) shall have the right to speak in or otherwise to take part in the meetings of the Council but shall not have the right to vote thereat.

(6) The Council may provide for payment of such allowances and expenses to a person associated with it under sub-section (1) as may determined by bye-laws.

Authentication
of orders and
other
instruments.

26. (1) All order and decisions of the Commission shall be authenticated by the signature of the Executive Chairperson or any other member authorised by the Commission in this behalf and all other instruments issued by the Commission shall be authenticated by the signature of the Secretary or any other officer of the Commission authorised by the Commission in this behalf.

(2) All decisions of a Council shall be authenticated by the signature of the Chairperson of the Council.

(3) All decisions of a Committee shall be authenticated by the signature of the Chairperson of the Committee or any other member of the Committee authorised by the Chairperson in this behalf.

Power of
Central
Government
to issue
directions to
Commission.

27. (1) In performance of its functions under this Act, the Commission shall be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Commission shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

Power of
Commission
to issue
directions to
Councils.

28. (1) In performance of its functions under this Act, the Council shall be bound by such directions on questions of policy as the Commission may give, in writing, to it from time to time:

Provided that the Council shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Commission, whether a question is one of policy or not, shall be final.

Members,
officers and
employees of
Commission
to be public
servants.

29. The Executive Chairperson, member, officer and employee of the Commission shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rules or regulations made thereunder, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

30. No suit, prosecution or other legal proceeding shall lie against the Commission or any member, officer or employee of the Commission for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rules or regulations made thereunder.

Returns and
information.

31. The Commission shall furnish to the Central Government such return or other information with respect to its property or activities as the Central Government may, from time to time, require.

Power to
make rules.

32. (1) The Central Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

33. (1) The Commission may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act, and the rules made thereunder for enabling it to perform its functions under this Act. Power to make regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the matters expressly required or allowed by this Act to be specified by regulations.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appears to it to be necessary or expedient for removing the difficulty: Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

The status of the educational system that is prevalent today needs to be innovated. The stake-holders in the field of education have been voicing the need for such appropriate changes that may cater to the multidimensional needs of students of modern India. Such changes are possible only if the primacy of the child and youth is kept in centre of attention of the society. Reformative ideas can be fruitful only if we keep in view the holistic nature of education and indispensable interconnections between various stages of education as also the aims, methods and contents relating to nationalism, internationalism, child-centered education, value-oriented education and skill-oriented education.

Modern developments of communication technology need to be utilized so that the process of transmission of knowledge are enriched. Development of different methodologies need to be employed in order to ensure balanced growth of the Hand, Heart and Head, as also of man-making education and integral education. This necessitates harmonious blending of scientific, philosophical, aesthetic, ethical and spiritual pursuits. Educational researches conducted by pioneering educationists of India and the would need to be pooled together and fresh fields of research need to be developed, monitored and guided on a permanent basis.

The spirit of India's perennial spiritual knowledge, robust intellectuality and abundant creativity needs to percolate and inspire the renewal and updating of the curricula throughout our system of education. At the same time, the ideal of universe as a family contained in the Indian Adage "*Vasudhaiva Kutumbakam*" has to guide the international dimensions of our education system.

Hence this Bill.

NEW DELHI;
February 9, 2018

OM PRAKASH YADAV

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of Educational Innovation Commission. Clause 7 provides for appointment of a Search Committee. It also provides for reimbursement of travelling and other expenses to the members of Search Committee. Clause 8, and sub-clause (2) of clause 13 provide for salaries and allowances of the Executive Chairperson, members other than *ex-officio* members, officers and employees of the Commission, respectively. Clause 18 of the Bill stipulates that the fund of the Commission shall consist of all receipt of the Commission and stipulates that the Central Government shall provide grants after due appropriation by law. Clause 24 provides for selection of fellows.

Clause 25 provides for payment of allowance and expenses to the persons associated with the Commission or a Council. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. A recurring expenditure of rupees five hundred crore is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects:—

Clause 5.— Item (g) of sub-clause (1) of this clause *inter-alia* empowers the Central Government to prescribe by rules, the manner of appointment by rotation of the Vice-Chancellor of a University as a member of the Commission.

Clause 8.— Sub-clause (4) of this clause empowers the Central Government to prescribe by rules, the terms and conditions of office of the Executive Chairperson and the members other than *ex-officio* members of the Commission.

Clause 12.— Sub-clause (1) of this clause empowers the Commission to prescribe by regulations, the time and the place of the meetings of the Commission and the rules of procedure with regard to transaction of its business at the meetings.

Clause 13.— Sub-clause (2) of this clause empowers the Commission to determine by regulations, the manner of recruitment, salary and allowances and other conditions of service of the Secretary, officers and other employees of the Commission.

Clause 16.— Item(XV) sub-clause (2) of this clause empowers the Commission to prescribe by regulations, such other functions to be performed by the Commission.

Clause 19.— Sub-clause (1) of this clause empowers the Central Government to prescribe by rules, the date for submission of budget of the Commission to the Central Government and the form in which the budget shall be prepared.

Clause 20.— (i) Sub-clause (1) of this clause empowers the Central Government to prescribe by rules, the form and the manner in which the accounts of the Commission shall be prepared and maintained;

(ii) Sub-clause (2) empowers the Central Government to prescribe by rules, the form in which the Commission shall prepare an annual statement of accounts.

Clause 21.—Sub-clause (1) of this clause empowers the Central Government to prescribe by rules, the form in which and the time at which the Commission shall prepare its annual report and submit to the Central Government.

Clause 22.—(i) Sub-clause (4) of this clause empowers the Commission to prescribe by regulations, the manner in which the four scholars for each council shall be selected amongst eminent educationalists in the subject of innovations;

(ii) Sub-clause (5) empowers the Commission to prescribe by regulations, the time and the place of meetings of the Council and the rules of procedure for transaction of business at its meetings;

(iii) Sub-clause (6) empowers the Commission to prescribe by regulation, the other functions to be performed and other powers to be exercised by the Council.

Clause 23.—(i) Sub-clause (1) of this clause empowers the Commission to delegate its functions to be performed and its powers to be exercised by the Committee as may be appointed by the Commission;

(ii) Sub-clause (2) empowers the Committee to determine the time and the place of meeting of the Committee and the rules of procedure to be observed for transaction of business at the meeting.

Clause 24.—Para (ii) of Sub-clause (4) of this clause empowers the Commission to determine by regulations the salary and allowances payable to a fellow.

Clause 25.—(i) Sub-clause (1) of this clause empowers the Commission to determine by regulations, the manner in which and the purpose for which the Commission may associate with itself, any person whose assistance or advice is required;

(ii) Sub-clause (3) empowers the Commission to determine by regulations, the allowances and expenses payable to a person associated with it;

(iii) Sub-clause (4) empowers the Commission to determine by regulations, the manner in which and the purpose for which the Council may associate itself, any person whose assistance or advice is required;

(iv) Sub-clause (6) empowers the Council to determine by bye-laws, the allowances and expenses payable to a person associated with it.

Clause 27.—This clause empowers the Central Government to issue directions to the Commission, on questions of policy as may be required in performance of its functions.

Clause 28.—This clause empowers the Commission to issue directions to the council, on questions of policy as may be required in performance of its functions.

Clause 32.—This clause empowers the Central Government to make rules, by notification in the Official Gazette, generally for carrying out the purposes of the Act.

Clause 33.—This clause empowers the Commission to make regulations, by notification in the Official Gazette, with the previous approval of the Central Government, not inconsistent with the provisions of the Act and the rules made thereunder and to provide for all or any other matters expressly required or allowed by the Act to be prescribed by regulations.

Clause 35.—Sub-clause (1) of this clause empowers the Central Government to remove difficulties, by order published in the Official Gazette, arising within two years from the date of commencement of the Act.

As the delegation of legislative powers will relate to matter of detail only and is of a normal character.

BILL NO. 92 OF 2018

A Bill to provide for payment of compensation to and provision of certain welfare measures for the victims of terror attacks.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and extent.

1. (1) This Act may be called the Victims of Terrorism (Provision of Compensation and Welfare Measures) Act, 2018.

(2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “prescribed” means prescribed by rules made under this Act; and

(b) “terror attack” means an attack by a terrorist group operating within or from outside the country.

3. Notwithstanding anything contained in any other law for the time being in force, the Central Government shall pay compensation to and take the following welfare measures for the victims of terror attack in the following manner:—

Compensation to the victims of terror attack.

(i) in case of loss of life,

(a) an ex gratia grant to the next of kin of the deceased which shall not be less than fifteen lakh rupees;

(b) financial assistance at such rate, as may be prescribed, to the next of kin of the deceased; and

(c) preference in Central Government jobs to the next of kin of the deceased;

(ii) in case of serious injury leading to incapacitation,—

(a) medical treatment free of cost till full recovery; and

(b) payment of an ex gratia amount to the victim, which shall not be less than three lakh rupees;

(iii) in case of minor injuries payment of an ex gratia amount, which shall not be less than two lakh rupees; and

(iv) in case of damage to the dwelling unit as a result of torching or bombing, repair of the dwelling unit, if viable or construction of a new dwelling unit.

4. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Overriding effect of the Act.

5. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Act not in derogation of any other law for the time being in force.

6. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The incidents of terror attacks are increasing in many parts of the country. Hundreds of innocent persons are being killed in such terrorist attacks. Their lives are shattered as they become permanently disabled or die during such attacks. The condition of deceased families is miserable as adequate compensation has not been provided to them by the Government. Therefore, it is necessary that the Central Government should come forward to pay compensation and provide certain other measures for the welfare of victims of terror attacks.

Hence this Bill.

NEW DELHI;
February 9, 2018.

RAMESH BIDHURI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for compensation to the victims or dependants of persons killed or injured during terror attacks. It also provides for construction of new dwelling units in case dwelling units are damaged in the terror attacks. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one thousand crore is likely to be involved.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 93 OF 2018

A Bill to abolish child labour in the country and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Abolition of Child Labour Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) “child” means a boy or a girl who has not attained the age of eighteen years;

(c) “establishment” includes a household, shop, commercial establishment, work-shop, farm or any residential place where commercial activity is involved, residential hotel, restaurant, eating-house, theatre or other place of public amusement or entertainment; and

(d) “prescribed” means prescribed by rules made under this Act.

3. Child labour, in any form, in any establishment in the country, is hereby abolished.

Abolition of child labour.

4. Subject to the provisions of section 6, whoever employs a child in any establishment, shall be punished with simple imprisonment for a term which may extend to three years and with fine which may extend to rupees two lakh.

Punishment.

5. Any parent or a lawful guardian of a child, who coerces his child into employment, shall be punished with simple imprisonment for a term which may extend to one year and with fine which may extend to rupees fifty thousand.

Punishment to parents or lawful guardians for coercion.

6. (1) Any establishment employing children shall remove such children from employment within a period of six months from the date of coming into force of this Act.

Closure of an organisation/ establishment engaging child labour.

(2) If, after the expiry of the period specified in sub-section (1), any establishment fails to remove children employed in that establishment, the appropriate Government shall order closure of such establishment.

7. (1) The appropriate Government shall establish at least one children home in every district for rehabilitation of children found employed in any establishment or collecting rags and waste or begging.

Establishment of children homes for rehabilitation of children.

(2) The children homes established under sub-section (1) shall provide free boarding and lodging, education, maintenance and such other facilities to the children, as may be prescribed, till they attain the age of eighteen years.

(3) Any child who is found employed in any establishment or collecting rags and waste or begging shall immediately be taken into custody by the police and sent to the nearest children home.

8. The provisions of this Act or rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect of law by virtue of any law other than this Act.

Act to have overriding effect.

9. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

India has the largest number of child labour in the world. The official figure is fifteen million. But the actual number may be much higher. Indian children are the source of cheap labour because they can be paid less wages or can be abused without provoking retaliation. These children work in industries manufacturing crackers, diamond polishing, glass, brassware, carpet weaving, bangle making, lock making and mica cutting to name just a few. A large number of children also work as domestic servants.

Poverty is cited as a major cause of child labour, but it is not the only determinant. Inadequate number of schools or even the expense of providing education leave some of the children with practically no option but to work. The attitude of parents also contribute to child labour. Compulsory elementary education may help ameliorate this attitude. The problem of child labour cannot be eliminated in one stroke. Many countries have enacted laws providing for ban on buying products of industries where children are employed.

Only multi-dimensional strategies including compulsory elementary education, eradication of poverty, eradicating parental illiteracy, making child labour illegal will help in achieving this objective. Stringent legal provisions, severe punishment for violation of laws, rehabilitation of children already engaged in work have to go along with abolition of child labour in the country. Therefore, it is high time that a stringent law for abolition of child labour is enacted.

Hence this Bill.

NEW DELHI;
February 9, 2018.

RAMESH BIDHURI

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides that the appropriate Government shall establish at least one children home in every district for the rehabilitation of children found employed in any establishment or collecting rags and waste or begging. The Central Government will have to incur expenditure from the Consolidated Fund of India for establishment of children homes in respect of Union territories. The State Governments will incur expenditure for establishment of children homes in the States from their respective Consolidated Funds. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees two hundred crore per annum.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 98 OF 2018

A Bill to provide for issue of health card to citizens living below poverty line for availing medical facilities free of cost and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Provision of Health Card (For Persons Living Below Poverty Line) Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force at once.

| | |
|---|---|
| 2. In this Act unless the context otherwise requires,— | Definitions. |
| (a) “medical store” means a registered pharmacy/drug store; | |
| (b) “person living below poverty line” means a person, whose annual income from all sources is less than rupees fifty thousand; and | |
| (c) “prescribed” means prescribed by rules made under this Act. | |
| 3. The Central Government shall formulate a compulsory health insurance scheme for persons living below poverty line. | Formulation of compulsory health insurance scheme. |
| 4. (1) The Central Government shall, through the State Government or the Union territory Administration, as the case may be, issue a health card to every citizen living below poverty line. | Insurance of health cards to persons living below poverty line. |
| (2) The health card shall contain the details such as name and age, address, details of family members, annual income and such other information as may be prescribed. | |
| (3) the compulsory health insurance scheme made under this Act shall cover head of the family, his spouse, dependent parents and dependent children. | |
| 5. Any citizen who is entitled to a health card but has not been issued the same, may approach the district administration, which shall, after necessary verification, issue the health card. | Citizens to approach district administration for non-issuance of health card. |
| 6. (1) Any citizen, who has been issued a health card, may approach any hospital, including a privately run hospital for treatment of self or any of his family members, whose name has been included in the health card. | Right of health cardholders to get treatment from hospitals. |
| (2) The hospital shall not charge any fees from the cardholder for his treatment or treatment of any member of his family and shall also provide the prescribed medicines free of cost: | |
| Provided that where medicines are unavailable in the hospital, it shall be procured from a medical store by the Hospital and made available to the citizens within the stipulated time as may be prescribed. | |
| (3) The hospital shall make entries in the health card regarding the total expenditure incurred by it in the treatment of the cardholder or his family members and send a copy of the detailed expenses to the Central Government in such manner as may be prescribed. | |
| 7. The total expenditure on the treatment in respect of a health cardholder and his family members shall not exceed rupees twenty-five thousand per year: | Limit of expenditure on the treatment of cardholders. |
| Provided that the cardholder may submit an application in the form as may be prescribed to the Central Government for enhancing the limit in case of any critical illness and the Central Government may allow an enhanced expenditure for the treatment of the particular disease. | |
| 8. Subject to the provisions of section 7, no hospital shall refuse treatment of any cardholder, on the ground that the cardholder has not made any advance deposit with the hospital for treatment. | Hospitals not to refuse treatment to cardholders. |
| 9. The hospital shall make its claim for reimbursement of expenses in connection with treatment of a cardholder or a member of his family to the Central Government in such manner as may be prescribed. | Procedure for reimbursement. |

Reimbursement
to be made
within a
month.

10. The Central Government on receipt of a claim under section 9 shall process the same and reimburse the expense within a month of receipt of the claim to the hospital concerned.

Penalty for
violation.

11. If any hospital refuses to treat any cardholder or member of his family without any valid reason, the Central Government shall issue directions for cancellation of the licence of the hospital.

Power to
make rules.

12. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Our country is facing the problem of shortage of manpower in the health sector. Below Poverty Line sectors cannot afford to seek any treatment from the private hospitals in our country due to high fees. The Government hospitals and Health Centres either lack medicine stock or have absentee doctors, especially in the rural areas. Healthcare on the other hand is extremely expensive in private sectors. Hence, high percentages of the population here cannot afford healthcare in private hospitals.

India, being a welfare State, care has to be taken by the Government for the under privileged sections of the society. It is proposed to provide that persons living below poverty line will be allowed to take free treatment in hospitals including private hospital.

Hence this Bill.

NEW DELHI;
February 15, 2018.

SHRIKANTE. SHINDE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for a health insurance scheme for all persons living below poverty line. Clause 4 provides for issuance of health cards to all persons living below poverty line to enable them to take treatment in hospitals. Clause 10 provides for reimbursement of expenses by the Central Government to the hospital concerned.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees Five hundred crore per annum.

A non-recurring expenditure of about rupees one thousand crore will also be involved for issuing health cards from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 99 OF 2018

A Bill to provide for the compulsory maintenance of food and potable water supplies for human consumption and fodder for the livestock of the farmers in drought affected areas by the Union Government with the co-operation of the Government of the concerned State and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Maintenance of Food, Potable Water and Fodder Supplies in Drought Affected Areas Act, 2018.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "drought affected area" means any area situated in any part of the country which has got below normal rainfall in any season of a calendar year and which in the opinion of the Central Government has been affected by drought and declared, by notification in the Official Gazette, to be a drought affected area for such period as may be specified in the notification;

(c) "food" includes cereals such as wheat, maize, barley etc. rice, pulses and edible oils and fuel for cooking;

(d) "fodder" includes the dry and green fodder generally fed to the livestock by the farmers and others; and

(e) "prescribed" means prescribed by rules made under this Act.

Compulsory maintenance of food supplies in drought affected areas.

3. The Central Government shall, in consultation with the State Government in whose jurisdiction the drought affected area falls, maintain uninterrupted food supplies in such area for the inhabitants in such manner and for such time as may be prescribed.

Appropriate Government to maintain supply of potable water in drought affected areas.

4. The appropriate Government shall maintain adequate supply of potable water through tankers or through other means as it may consider appropriate in the drought affected area for such period as may be prescribed.

Appropriate Compulsory maintenance of fodder supply in drought affected areas.

5. The appropriate Government shall maintain adequate supplies of fodder in a drought affected area by procuring fodder from other States in such manner and for such period as may be prescribed.

Funds to be provided by the Central Government.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide, from time to time, adequate funds for carrying out the purpose of this Act.

Savings.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Drought in India has resulted in millions of deaths over the course of the 18th, 19th and 20th centuries. Indian agriculture is heavily dependent on the climate *e.g.* a favourable south-west summer monsoon is critical in securing water for irrigation of crops. In some parts of the country, the failure of the monsoons result in water shortage thereby causing below-average crop yields. This is evident in major drought-prone regions such as southern and eastern Maharashtra, northern Karnataka, Andhra Pradesh, Odisha, Gujarat, Telangana, Rajasthan, Bihar and Jharkhand which play as havoc in such areas.

The Palamu division in Bihar and Kalahandi in Odisha have become synonymous with drought. It has been observed that during the drought period the inhabitants do not have food to eat and water to drink for their survival resulting in their exodus. In many areas starvation deaths also occur. The worst sufferers in such time are the mute livestock. People leave them stray to fend for themselves and without fodder and water they ultimately die. The Governments at the Centre and State provide some sort of relief to the people of such areas but the mute animals remain uncared for. It is, therefore, necessary that the supply of food and potable water and also the fodder be maintained on priority and it should remain uninterrupted so that the people do not leave such places and the livestock too get its fodder and water for its survival.

Hence this Bill.

NEW DELHI;
February 15, 2018.

SHRIKANT E. SHINDE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall maintain uninterrupted food supplies in drought affected areas. Clause 4 provides that appropriate Government shall maintain adequate supply of potable water in drought affected areas. Clause 5 provides that appropriate Government shall provide adequate supplies of fodder in drought affected areas. Clause 6 provides that the Central Government shall provide adequate funds for the implementation of the Bill. The Bill, therefore, if enacted and brought into operation, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crores would be involved as recurring expenditure per annum from the Consolidated Fund of India.

A non recurring expenditure of rupees five hundred crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 94 OF 2018

A Bill to provide for the promotion of use of ocean thermal energy to reduce carbon emission, protect environment and substitute traditional electricity generation methods of fossil fuel burning and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Ocean Thermal Energy Conversion Act, 2018.

Short title,
extent and
commencements.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in case of a State, the Government of that State and in all other cases, the Central Government;

(b) "Authority" means the National Ocean Thermal Energy Authority of India constituted under section 3;

(c) "Ocean Thermal Energy Conversion" or "OTEC" means a process used for production of electricity by using the temperature difference between deep ocean water and warm tropical surface water; and

(d) "prescribed" means prescribed by rules made under this Act.

Establishment
of National
Ocean
Thermal
Energy
Authority of
India.

3. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish an Authority to be called the National Ocean Thermal Energy Authority of India for carrying out the purposes of this Act.

(2) The head office of the Authority shall be at New Delhi and the Authority may establish offices at such other places in the country as it may deem necessary for carrying out the purposes of this Act.

(3) The Authority shall consist of—

(a) a Chairperson, who shall be an expert scientist having adequate knowledge and professional experience in the field of OTEC technology;

(b) one Deputy Chairperson with such qualifications as may be prescribed;

(c) three members of Parliament of whom two shall be from the House of the People and one from the Council of States to be nominated by the respective Presiding Officers of the Houses concerned;

(d) five members to represent the Union Ministries of Environment, Forests and Climate Change, Science and Technology, New and Renewable Energy, Planning and Finance, respectively;

(e) four members to represent the non-Governmental Organisations working for the protection of environment and promotion of ocean thermal energy in the country; and

(f) four members to be nominated by the Governments of the States to be rotated amongst the States in alphabetical order.

(4) The salary and allowances payable to, and other terms and conditions of service of office of the Chairperson, Deputy Chairperson and members of the Authority and the procedure to be followed in the discharge of the functions of the Authority shall be such, as may be prescribed.

(5) The Authority shall have a secretariat with such officers and members of staff and with such terms and conditions of services as may be prescribed, from time to time.

Functions of
the Authority.

4. (1) Subject to any guidelines issued by the Central Government under the provisions of this Act, the Authority shall perform and undertake such special steps in close co-ordination with concerned Ministries, Departments and Public Sector Enterprises of the Central and State Governments for rapid and accelerated promotion and development of ocean thermal energy throughout the country as it may deem necessary and expedient to do so for the promotion of ocean thermal energy conversion.

(2) Without prejudice to the generality of the foregoing provisions, the Authority shall,—

(a) formulate ocean thermal energy conversion policy, its goals and execution plan;

(b) develop indicative standards of ocean thermal energy conversion;

(c) support and encourage research and development through Government and private sector participation involving all major Research laboratories;

(d) facilitate infrastructure development of ocean thermal energy conversion in coastal areas;

(e) suggest educational and other policy initiatives for ocean thermal energy conversion;

(f) facilitate quick technology transfer and adoption of ocean thermal energy conversion; and

(g) such other steps as the appropriate Government may deem necessary.

5. (1) Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall in consultation with the Authority make it compulsory for every coastal city village including Government establishments to,—

Miscellaneous Provisions.

(a) use the OTEC technology for electrification in all coastal buildings, homes and villages;

(b) make it mandatory for electricity utilities to purchase electricity from ocean thermal energy sources;

(c) reserve adequate resources for setting up of ocean thermal energy conversion projects;

(d) take such other steps as the appropriate Government may deem necessary.

(2) The appropriate Government shall, as soon as may be, identify the exploitable sources of ocean thermal energy in their respective territorial jurisdictions and send project report thereon to the Authority which shall depute a team of experts to verify and assess the possibility of exploiting ocean thermal energy sources.

(3) The Authority shall on the basis of the report submitted by the team of experts work out the estimated expenditure on the project and recommend to the Central Government regarding implementation of the projects.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Authority in each financial year such sums as may be considered necessary and adequate for the performance of the functions of the Authority under this Act.

Central Government to provide funds.

7. The Authority shall prepare once in every calendar year in such form and at such time as may be prescribed an Annual Report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the President of India who shall cause the same to be laid before both the Houses of Parliament.

Annual Report.

8. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made the expiry of the period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall as soon as may be after it is made, be laid before both the Houses of Parliament.

9. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which

may be comprised in one session or in two or more successive sessions and if, before the expiry of the sessions immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Ocean Thermal Energy Conversion (OTEC) is more than just a technology that produces clean energy. With OTEC, the goal is to create a sustainable future using the world's most abundant resource—our oceans.

Due to the unlimited availability of the ocean's thermal resource—the fuel that powers OTEC—this technology is built to produce clean energy 24 hours a day, 7 days a week. This provides a great advantage over intermittent (albeit important) renewable technologies such as solar and wind.

OTEC also can shrug off the storage problems that are often associated with clean energy. Due to its ability to produce a range of secondary services, the surplus energy generated by an OTEC plant can be diverted to power desalination plants (removing salt and other minerals to produce drinking water). This flexibility ensures that OTEC produced energy never goes to waste. Another major competitive benefit of OTEC is its range of secondary services. Besides producing electricity and fresh drinking water, OTEC can support agriculture and aquaculture industries, reducing local demand on water supplies. It can also slash costs of air conditioning in tropical regions. By using the temperature differential between warm ocean surface water and cold deep water as a renewable energy source, OTEC can generate two humanity's most fundamental needs—clean drinking water and renewable base load (24x7) energy. Each OTEC plant is capable of producing voluminous amounts of drinkable water (a 10-MW OTEC plant can produce as much as 75 million litres of fresh drinking water a day). Thus, the technology holds great potential for meeting global domestic and agricultural freshwater demands both now and in the future. More than seventy per cent. of the earth's surface is covered by water, and over eighty per cent. of the sun's energy is stored within surface waters—the equivalent of 4,000 times the energy used in the world per day. In just one 24-hours period, tropical ocean waters absorb solar radiation equal to the energy produced by 250 billion of oil.

OTEC's ability to help reduce our dependence on fossil fuels—one of the largest human-induced contributors to climate change—is enormous. Just one 10-MW OTEC plant has been estimated to provide reliable clean energy for approximately 10,000 people and to replace the burning of 50,000 barrels of oil and release of 80,000 tons of carbon dioxide (CO₂) per year into the atmosphere. OTEC plants therefore may play a huge role in helping global communities fight pollution-related climate change.

OTEC can also use deep water as a cooling agent for environmentally friendly air conditioning, a system known as Seawater Air Conditioner (SWAC). To replace traditional electric chillers and chemicals for cooling buildings, OTEC plants use cold water from deep oceans and lakes. Their installation into airports, medical centers and holiday resorts can reduce electricity usage by up to ninety per cent. compared to conventional systems, offering enormous reductions in carbon emissions.

OTEC's unique symbiosis between clean baseload renewable energy and potable water production is a natural fit. The combination addresses existing global factors that could precipitate a humanitarian crisis: the growing global need for potable water, the lack of available freshwater sources, the increased concentration of populations in coastal regions, and rising energy prices. Keeping all the benefits in view, China has recently installed world's largest floating OTEC plant. Many countries are already in ways to install OTEC plants. In India's perspective, there is tremendous scope for the energy from the ocean as India has a long coastline of about 7500 kilometer and about 1200 islands in Bay of Bengal and Arabian Sea including Andaman and Nicobar Islands and the Lakshadweep Islands.

The Bill, therefore, seeks to constitute a National Ocean Thermal Energy Commission for the rapid and accelerated promotion and development of Ocean Thermal Energy in the country.

Hence, this Bill

NEW DELHI;
February 15, 2018.

SHRIKANTE. SHINDE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the National Ocean Thermal Authority of India. Clause 5 makes it compulsory for every Central Government establishment to take measures for using ocean thermal energy by carrying out appropriate changes. Clause 6 of the Bill makes it obligatory for the Central Government to provide necessary funds for the purpose of the Bill. The Bill, therefore, if enacted and brought into operation will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one hundred crore may be involved as recurring expenditure per annum.

A non-recurring expenditure to the tune of rupees one thousand crore may also involve from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 87 OF 2018

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2018.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2 of 1974.

2. In the First Schedule to the Code of Criminal Procedure, 1973, under the heading “I.—OFFENCES UNDER THE INDIAN PENAL CODE”, for the entries relating to section 354D, the following entries shall be substituted, namely:—

Amendment of the First Schedule.

| 1 | 2 | 3 | 4 | 5 | 6 |
|----------------|---|---|------------|--------------|------------------|
| “354D Stalking | Imprisonment up to 3 years and with fine with for first conviction. | | Cognizable | Non-bailable | Any Magistrate |
| | Imprisonment up to 5 years and with fine for second or subsequent conviction. | | Cognizable | Non-bailable | Any Magistrate”. |

STATEMENT OF OBJECTS AND REASONS

In the aftermath of the brutal gang rape and murder of December, 2012, Justice Verma Committee was constituted to recommend amendments to the Criminal Law so as to provide for fast track trial and enhanced punishment for criminals accused of committing sexual assault against women. The Committee comprehensively expanded the list of crimes against women and brought stalking under the ambit of Indian Penal Code. The Committee recognized stalking as a crime and recommended it to be made a non-bailable offense. But in contrast to the Committee recommendations, in the Criminal Law (Amendment) Act, 2013, enacted subsequently, the first offense of stalking was made bailable while any subsequent offense was made non-bailable.

A bailable provision in the statute for stalking has massively diluted the deterrence. It allows the accused to obtain bail without any serious scrutiny often putting the victim at further risk of harassments and assaults. As per National Crime Record Bureau, over eighty per cent of the people accused of stalking are given bail before even the chargesheet is filed. At the same time, cases of stalking continue to rise in the country with 7132 cases registered in 2016 followed by 6266 in 2015 and 4699 in 2014.

Hence it is high time that concerns surrounding stalking be addressed urgently. In this regard, the Bill seeks to make stalking a non-bailable offense in line with the Justice Verma Committee recommendations.

Hence, this Bill.

NEW DELHI;
February 16, 2018.

RAJENDRA AGRAWAL

BILL NO. 65 OF 2018

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2018.

Short title.

2. In article 75 of the Constitution, in clause (1A), the following proviso shall be added at the end, namely:—

Amendment
of article 75.

“Provided that at least one-third of the total number of Ministers in the Council of Ministers shall be women.”.

3. In article 164 of the Constitution, in clause (1A), before the existing provisos, the following proviso shall be inserted, namely:—

Amendment
of article 164.

“Provided that at least one-third of the total number of Ministers in the Council of Ministers shall be women.”.

Amendment
of article
239AA.

4. In article 239AA of the Constitution, in clause (4), before the existing proviso, the following proviso shall be inserted, namely:—

“Provided that at least one-third of the total number of Ministers in the Council of Ministers shall be women.”.

STATEMENT OF OBJECTS AND REASONS

Women represent almost half of the country's population but unfortunately have a marginal proportion in influential and decision making roles of Government, both at the Union and at the State level. Although our Constitution has guaranteed equal opportunities for women in all walks of life through the fundamental right to equality, yet women's visibility in the power structure is severely limited. This imbalance is primarily because of the prevalent misogynistic notions of gender perpetuated by the society.

To have a meaningful democracy, all members of the society should have equal access to power. Thus, it is urgently required to redress the gender based inequality and create a level playing field for women. For an inclusive development of the nation, the widespread gender gap must be bridged and female presence in powerful influence wielding institutions be encouraged. Therefore, to achieve the said objective, the Bill makes it mandatory that at least one-third of the total number of Ministers in the Council of Ministers should be women.

Hence, this Bill.

NEW DELHI;
February 15, 2018.

RAJENDRA AGRAWAL

BILL NO. 67 OF 2018

A Bill to provide for compulsory teaching of environmental education in all educational institutions and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Compulsory Teaching of Environmental Education in Educational Institutions Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Advisory Council" means the Advisory Council for Environmental Education constituted under section 6;

(b) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(c) "educational institution" means a primary or a middle or a secondary or a senior secondary level school imparting education to children, or any college, institute or university imparting higher education recognized by the Government or established under an Act of the Central Government or a State Government, by whatever name such institution is called;

(d) "environmental education" means education through which individuals gain awareness of their environment and acquire knowledge, skills and values to enable them to act individually as well as collectively to solve present and future environmental problems; and

(e) "prescribed" means prescribed by rules made under this Act.

3. From such date, as the Central Government may, by notification in the Official Gazette, specify, environmental education shall be taught as a compulsory subject in all educational institutions from such class onwards as may be determined by the Central Government on recommendation of the Advisory Council.

Compulsory teaching of environmental education.

4. The appropriate Government shall, immediately after issuance of the notification under section 3, issue directions for compulsory teaching of environmental education in all educational institutions within its jurisdiction.

Appropriate Government to issue directions for compulsory teaching of environmental education.

5. Subject to such matters as may be prescribed, the appropriate Government shall ensure appointment of such number of teachers with such qualifications, as may be specified, for teaching environmental education in educational institutions.

Appointment of teachers for imparting environmental education.

6. (1) The Central Government shall, within three months of the coming into force of this Act, by notification in the Official Gazette, constitute an Advisory Council for Environmental Education.

Constitution of Advisory Council for Environmental Education.

(2) The Advisory Council shall consist of such number of persons, having special knowledge or practical experience in the field of environmental education, as the Central Government may deem fit.

7. The Advisory Council shall perform the following functions, namely:—

Functions of the Advisory Council.

(a) recommend to the Central Government the syllabus of environmental education for each standard at the school and university level;

(b) recommend to the Central Government the class from which onwards environmental education shall be taught in educational institutions;

(c) recommend to the appropriate Government the qualifications of teachers to be appointed in educational institutions for teaching environmental education;

(d) recommend to the appropriate Government the institutions which may be given recognition for training teachers in environmental education for the purpose of their appointment in educational institutions; and

(e) co-ordinate with the appropriate Government and the educational institution authorities with a view to ensuring effective implementation of the provisions of this Act.

Application of Act on minority educational institutions in certain situation.

8. Notwithstanding anything contained in this Act, the provisions of this Act shall apply to minority institutions only if the management of such institutions convey to the appropriate Government their willingness to include the teaching of environmental education text books in their school curriculum.

Derecognition of educational institutions for non-compliance of the provisions of this Act.

9. The appropriate Government shall derecognize educational institutions, which does not comply with the provisions of section 4, after giving such institution a reasonable opportunity of being heard.

Central Government to provide fund.

10. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the State Governments for carrying out the purposes of this Act.

Overriding effect of the Act.

11. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

12. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

One of the biggest worries grappling the world today is environmental degradation. Fast paced urbanization, industrialization and deforestation have led to enormous levels of environmental pollution and created wide imbalances in the ecology.

Education is an important instrument through which individuals could be imparted the awareness and consciousness to address the concerns surrounding our environment and to act individually as well as collectively to solve the present and future environmental issues.

The Honourable Supreme Court of India in its directive of 1991 had made it compulsory for environment education to be included in the school and college curricula. But it has been observed that the Supreme Court's directive has not been implemented effectively so far.

The Bill, therefore, seeks to make it mandatory for environmental education to be taught as a compulsory subject at all levels of education.

Hence, this Bill.

NEW DELHI;

RAJENDRA AGRAWAL

February 16, 2018.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for appointment of environment education teachers in all schools. Clause 6 provides for constitution of Advisory Council for environment education by the Central Government. Clause 10 provides for payment of adequate funds to the States for carrying out the purpose of the Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to give exact estimate of expenditure, both recurring and non-recurring, which will be involved from the consolidated Fund of India, if the Bill is enacted into a law. However, it is estimated that a recurring expenditure of about rupees one hundred crore will be involved per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 86 OF 2018

A Bill to provide for the welfare of children and for matters connected therewith.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Child Welfare Act, 2018.

Short title and
extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires, 'child' means a person who has not completed the age of fifteen years.

Definition.

3. Notwithstanding anything contained in any other law for the time being in force, no child shall be employed by any person for any work in any manner.

Prohibition of
child
employment.

Establishment of juvenile homes.

4. (1) The Central Government shall establish adequate number of juvenile homes with all basic amenities for the welfare of children in every district of the country.

(2) Any child who is abandoned, orphan, destitute, neglected or engaged in any job, occupation or begging shall be admitted to the juvenile homes set up under sub-section (1).

Facilities to be provided to the children in juvenile homes.

5. (1) Every child who is admitted into the juvenile home shall be entitled to the following facilities free of cost,—

(a) accommodation, food and clothing;

(b) education including higher and technical education; and

(c) medical assistance.

(2) Every child shall also be entitled to such other facilities as are necessary for his all-round development.

Provision for reservation in posts and services under Central Government.

6. The Central Government shall make provisions of reservation in posts and services under its control for children admitted to juvenile homes on attaining the age of eighteen years.

Power to make rules.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

A large number of children are forced by their parents to do menial labour, in order to sustain their livelihood. Due to lack of proper diet and healthcare, these children become victims of a number of diseases. Some of them even succumb to premature death. Many of these children are highly talented. But due to lack of proper education and other opportunities, their talent goes waste.

Children are the future of a country. It is, therefore, the responsibility of the Government to provide opportunities of all-round development to every child and also to provide protection against exploitation. Thus, it is proposed to bring in a legislation for the welfare and protection of children against exploitation.

Hence, this Bill.

NEW DELHI;
February 22, 2018.

JUGAL KISHORE SHARMA

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for setting up of adequate number of juvenile homes with all basic amenities for the welfare of children in every district of the country by the Central Government. Clause 5 provides for free of cost food, accommodation, clothing, education and medical facilities to the children in juvenile homes. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees fifty crore is likely to be involved.

A non-recurring expenditure of about rupees five crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 112 OF 2018

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2018.

Short title.

2. In the Eighth Schedule to the Constitution, existing entries 10 to 22 shall be renumbered as entries 11 to 23, respectively and before entry 11 as so renumbered, the following entry shall be inserted, namely:—Amendment of
the Eighth
Schedule.

“10. Magahi.”.

STATEMENT OF OBJECTS AND REASONS

The Magahi language also known as Magadhi is a language widely spoken in the Bihar-Jharkhand region and has more than seventeen million speakers. The language has been derived from the ancient Magadhi Prakrit and is also believed to be the language spoken by Gautama Buddha. Magahi also has the distinction of being the official language of the court of the Mauryans in which edicts of the king Ashoka were composed. Also Magahi, having its own script called '*Kaithi*', was used as official language at that time and many legal, administrative and private records pertaining to the period have been preserved by the people even to this day.

The land of Magadh holds a precious position in the history of ancient India and had been workplace of a number of great personalities including Lord Buddha and Mahavira. Further, Pali language, a language similar to Magahi is already been taught in the Magadh University. Unfortunately, this precious language, despite being spoken by a large number of persons, being the language of Lord Buddha himself and having had the status of *rajbhasha* during the reign of emperor Ashoka, has not been recognized as one of the languages under the Eighth Schedule to the Constitution of India. Therefore, it is need of the hour to provide the due recognition to the language through its inclusion in the Eighth Schedule to the Constitution.

Hence, this Bill.

NEW DELHI;
March 7, 2018.

SUSHIL KUMAR SINGH

BILL NO. 118 OF 2018

A Bill to confer a right on indebted farmers to obtain an immediate one-time complete waiver of outstanding loan; right to obtain institutional credit; protection of debt trapped farmers suffering from natural disasters or distress and constitution of a National Farmers' Distress and Disaster Relief Commission and State Farmers' Distress and Disaster Relief Commissions with power to pass awards and recommend appropriate measures for the relief to farmers in distress and for matters connected therewith or incidental thereto.

WHEREAS the nation is indebted to farmers for ensuring food security and food sovereignty for the nation;

AND WHEREAS thousands of farmers are committing suicide every year across the nation due to agrarian distress and related indebtedness adding up to more than three lakh farmers suicide in the past twenty years;

AND WHEREAS the Government is obligated to prevent farmer suicides and distress under article 21 of the Constitution, particularly as the causes of farmers suicide are related to Government policies;

AND WHEREAS safeguarding the right to livelihood is an essential part of the right to life under Article 21 of the Constitution;

AND WHEREAS farm commodity prices have been kept low as a policy measure with several regulations on marketing, and the recommendation of the National Farmers' Commission to fix the minimum support prices with at least fifty per cent. profit margin over and above the comprehensive cost of cultivation has not been implemented for the past twelve years, thus adversely affecting farmers' net returns from agriculture reflected in official surveys with a vast majority of farmers having negative net returns, thereby debts being accumulated by farmers;

AND WHEREAS the successive Governments have not effectively fulfilled their responsibilities to provide comprehensive institutional credit facilities, to provide due recognition and full inclusion to many categories of cultivators including landless and lessee cultivators, women farmers and tribal farmers, to execute effective risk insurance and disaster relief measures, to keep input prices in check, to create large scale shift from high external input agriculture to sustainable agriculture, and to build infrastructure, all of which have in turn resulted in losses for farmers leading to debt;

AND WHEREAS many districts in the country are afflicted by severe distress due to the agrarian crisis, and it ruined many farmers financially and led to suicides;

AND WHEREAS several suits and other proceedings have been filed in courts, tribunals and before other authorities for the recovery of debts accrued from farmers, accompanied by harassment and defamation in public by creditors;

AND WHEREAS it is expedient to provide relief to the farmers who are in distress due to indebtedness by providing a one-time immediate and complete loan waiver to all farmers;

AND WHEREAS it is necessary to reform the institutional credit support system to prevent a future debt trap for the farmers, by providing access to institutional credit as a right to all categories of farmers, and by providing protection from debt trap to farmers suffering from losses due to disasters and distress;

AND WHEREAS the Supreme Court has provided guidance for harmonisation of entry 45 of List I of the Seventh Schedule (Union List) and entry 30 of List II of the Seventh Schedule (State List);

AND WHEREAS the conditions of agrarian crisis and indebtedness of farmers as well as increasing incidence of natural calamities due to climate change are common in various States across the nation and require to be addressed at the National level, with resource support from the Centre and implementation at both the national and State levels.

BE it enacted by Parliament in the Sixty-ninth year of the Republic of India, as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Farmers' Freedom from Indebtedness Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force within one month from the date of assent by the President.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "agriculture" includes cultivation of seasonal and annual crops, horticulture, farming and growing of medicinal plants, crops and intercrops, plantation crops like coconut, arecanut, vanilla and pepper, tuber crops like tapioca, fruits, vegetables, milk production, gathering of minor forest produce, fishing, production of flowers, grass, fodder grass and trees or any kind of cultivation of soil, raising nursery, breeding and keeping of livestock including fish and mussels, bees, silkworm, poultry, duck, cattle or pigs or any other primary production activity;

(b) "agricultural commodity" means all cereals, millets, pulses, oilseeds, fibre crops, horticulture crops of fruits and vegetables, plantation crops, spice crops, tuber crops, medicinal plants, all varieties of milk, minor forest produce, flowers, grass, fodder grass and tree produce, nursery produce, all livestock and animal products like meat, eggs and poultry, honey, silkworm cocoons, all fishery produce like fish mussel, marine fish and freshwater aquatic produce, and all such other primary produce and agricultural commodity with all its cognate expressions;

(c) "agricultural expert" includes a person with at least fifteen years of experience of policy making or management or field work in agriculture-related sectors including rural banking services for agriculture;

(d) "appropriate Government" means in the case of a State the Government of that State and in all other cases, the Central Government;

(e) "debt" means any liability, including that incurred for agricultural production, including purchase and rearing of cattle and other livestock improvement of production infrastructure and services (cattleshed, pump house, farm machinery and equipment, processing and value addition), basic needs of the household like survival, health and education, whether secured or unsecured, due from a farmer, whether payable under a contract or under a decree or order of any Court or Tribunal or otherwise, and includes any sum payable to—

(i) an institutional creditor; or

(ii) a private creditor,

but does not include any loan amount taken by the farmer for commercial purposes or luxury other than agricultural and allied purposes;

(f) "district" means a revenue district;

(g) "distress affected area" means revenue district or districts or part thereof in any State or several States or the entire country as declared by the Government under sections 8 and 19 on the recommendations of the National Commission or a State Commission for the purpose of this Act, where farmers are affected by acute distress due to reasons as the case may be, including natural calamities, failure of crop due to extensive pest or disease attack, widespread supply of adulterated or spurious inputs, extensive destruction by wild animals, price crash and such other reasons;

(h) "distress affected crop" means any crop or crops of any State or the entire country, as declared by the Government under sections 9 and 20 on the recommendation of the National Commission or a State Commission, as the case may be, for the purpose of this Act including natural calamities, destruction by wild animals, price crash, failure of crop due to reasons including natural calamities, failure of crop due to extensive pest or disease attack, widespread supply of adulterated or spurious inputs, extensive destruction by wild animals, price crash, and such other reasons;

(i) "distress affected farmer" means a farmer declared as such by the Commission (National or State) or any farmer who is practicing agriculture in a distress affected area as declared by the Commission or who is cultivating a distress affected crop as declared by Commission;

(j) "farmer" means a person actively engaged in the economic and/or livelihood activity of growing crops or producing other primary agricultural commodities with or without land ownership, including all agricultural operational holders, cultivators, sharecroppers, tenants, lessee cultivators, *adivasi* farmers, tribal farmers, agricultural labourers, poultry and livestock rearers, fisherpeople, beekeepers, pastoralists, non-corporate planters of plantation crops and planting labourers, forest-gatherers, women farmers and self-help groups doing-cultivation on collectively owned or leased-in land;

(k) "financial institution" means any financial institution constituted by or under any Central Act or State Act for the time being in force and registered with the Government, including non-banking financial institution;

(l) "institutional creditor" means Scheduled Banks in the public and private sector, Regional Rural Banks, Co-operative Societies, Non-Banking Financial Companies, Micro-Finance Institutions and includes the State Bank of India or any Subsidiary Bank within the meaning of clause (k) of section 2 of the State Bank of India (Subsidiary Bank) Act, 1959 or any other Scheduled Bank;

(m) "interest" means any amount payable in excess of the principal amount borrowed or pecuniary obligation incurred by whatsoever name such amount may be called, whether the same is expressly mentioned or not in the document or contract, if any;

(n) "member" means a member of the National Commission or a State Commission and includes the Chairperson;

(o) "National Commission" means the National Farmers' Distress and Disaster Relief Commission constituted under section 6;

(p) "penal interest" means any amount payable in excess of interest on a debt;

(q) "prescribed" means prescribed by rules under this Act;

(r) "principal amount" means the amount originally advanced together with the amount, if any, as has been subsequently advanced, notwithstanding any stipulation to treat any interest as capital and notwithstanding that the debt has been renewed, whether by the same farmer or by his heirs, assignees or legal representatives or by any other person acting on his behalf or in his interest; and whether in favour of the same creditor or his heirs, assignees or legal representatives or any other person acting on his behalf or in his interest, and whether in favour of the same creditor or his heirs assignees or legal representatives or of any other person acting on his behalf or in his interest;

(s) "private creditor" means any person engaged in lending money, whether under a licence or not or providing credit in the form of inputs and implements, and includes his heirs, legal representatives, assignees, and any other person as may be notified by the Government;

(t) "production loan" means short term loan borrowed for meaning the running or routine costs of producing an agricultural commodity;

(u) "Secretary" means the Secretary to the National Commission or State Commission appointed under section 6 or section 17, as the case may be; and

(v) "State Commission" means the State Farmers' Distress and Disaster Relief Commission constituted under section 16.

CHAPTER II

ONE-TIME IMMEDIATE LOAN WAIVER

Right of
farmer to
receive one-
time
immediate
and complete
loan waiver.

3. (1) Every farmer, including distress affected farmer shall be entitled to an immediate and unconditional waiver of the entire amount of outstanding institutional debt as defined in section 2 (e), as on 1st of April, 2018;

(2) Every farmer after repayment of debt who have repaid debt from the financial year preceding the cut-off period in sub-section (1) shall have his accounts credited with the amount of scale of finance for the crop grown and interest paid within three months of the commencement of this Act;

(3) The loan waiver shall be implemented in a single installment by the Government within three months of the commencement of this Act;

(4) The Central Government shall ensure that all farmers get fresh loans to every farmer in the ensuing season without any impact of the implementation of loan waiver;

(5) The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide sufficient funds to the State Governments to implement waiver of loans from Cooperative Banks;

(6) All private debts of farmers, shall stand null and void, as on date of waiver of outstanding debt as mentioned under sub-section (1) and no proceeding or suit shall lie against the farmer for the principal or interest:

Provided that a private creditor may file a claim for recovery from Government, of the principal amount of such a loan after establishing the existence of the loan as per prescribed procedure and subject to prescribed requirements and limits and there shall be no recovery of debt from the farmer.

(7) The Central Government shall issue a notification for implementation of the provisions sub-section (6) immediately after the commencement of this Act.

(8) The Central Government shall, within three months of the commencement of this Act, take up special measures for providing relief on priority basis to farmer suicide affected families, which shall include—

(a) complete waiver of outstanding loans;

(b) return of any land, equipment or other asset that may have been attached or confiscated by any institutional or private creditor in lieu of debt; and

(c) appropriate livelihood support as per prescribed guidelines.

CHAPTER III

RIGHT TO ACCESS INSTITUTIONAL CREDIT

4. (1) Every farmer including distress affected farmer shall be entitled to production loans from institutional creditors at subsidized interest rates:

Right to every farmer to access institutional credit.

Provided that—

(a) production loans up to rupees three lakhs shall be available to the farmer at zero interest rate and this limit be revised periodically;

(b) the amount of production loan for crop cultivation shall be as per prescribed scale of finance for the crop being cultivated with a small consumption loan component.

(2) Every farmer including a lessee farmer, tenant farmer, share-cropper, woman farmer, tribal farmer or a farmer of such category engaged in cultivation of crops on an extent of land but does not possessing the title for that land shall be registered and issued a Kisan Credit Card, within six months from the commencement of this Act:

Provided that—

(a) the cultivator shall, without any collateral security other than hypothecation of crop, be entitled to production loan as per sub-section (1); and

(b) the Kisan Credit Card shall be issued for a minimum period of five years and may be renewed after five years or modified during the period of validity as per prescribed procedure.

CHAPTER IV

DEBIT RELIEF FOR FARMERS AFFECTED BY DISTRESS AND DISASTERS

5. When a natural disaster or calamity is declared by the Central Government, the farmer shall be entitled to relief from repayment of the production loan to the extent of the loss of crop or other production with fresh loans issued for the next season within one month of declaration of such disaster or calamity:

Debt Relief for Farmers affected by Distress and Natural Disasters.

Provided that—

(i) loans other than production loans shall be rescheduled for three years with interest rates not exceeding two per cent.; and

(ii) loans shall be waived off in full in case of farmers who are affected by two consecutive years of natural disaster.

CHAPTER V

NATIONAL FARMERS' DISTRESS AND DISASTER RELIEF COMMISSION

Constitution
of the
National
Commission.

6. (1) The Central Government shall, within six months after implementing loan waiver under section 3, and within a maximum of twelve months from the commencement of this Act, by notification in the Official Gazette, constitute a Commission to be known as the National Farmers' Distress and Calamity Relief Commission, for exercising the powers and performing the functions and responsibilities defined under section 8.

(2) The Commission shall consist of—

(a) an eminent agricultural scientist or retired Vice-Chancellor of an Agricultural University—Chairperson;

(b) Two agricultural experts including experts in rural banking for agriculture—Members;

(c) five representative of farmers, including leaders of farmers unions and persons with a proven record of having worked on farmers' issues—Members; and

(d) a person with proven record of work with cooperative sector farmer producer organisations or agricultural banking—Member:

Provided that one of the members shall be designated as Vice-Chairperson so that proceedings are not affected in the absence of the Chairperson for any reason.

Provided further that at least one of the members nominated under clause (iii) and (iv) shall be a woman.

(3) The Chairperson and members shall be nominated by the President of India on the recommendation of a Selection Committee after seeking applications from eligible candidates wide publicity by the Ministry of Agriculture and Farmers' Welfare.

(4) The Selection Committee shall consist of—

(a) the Prime Minister of India who shall be the Chairperson,

(b) the Leader of Opposition in the House of People or the leader of the single largest party or group in Opposition in the House of People; and

(c) the Union Minister for Agriculture and Farmers Welfare:

Provided further that a person shall be disqualified for appointment as a member if he,—

(a) has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has such financial or other interest, as is likely to affect prejudicially the discharge of his functions as a member; or

(f) has such other disqualifications as may be prescribed by the Government.

(5) The Selection Committee shall, while nominating a member under clause (iii) and (iv) of sub-section (2), take into consideration diversity in representation in terms of region, gender and social background including Scheduled Castes and the Scheduled Tribes.

(6) The Central Government shall ensure that no member including Chairperson represents any financial, commercial or other interest which may prejudicially affect the discharge of his functions on the Commission:

Provided that no person associated with a farmers' organization may be disqualified on that ground alone.

(7) The Central Government shall, in addition to providing all infrastructure facilities required including office space and other facilities appoint a Secretary and other staff as may be necessary to assist the Commission in such manner as may be prescribed.

(8) In the discharge of their duties, the Secretary and other staff referred to in sub-section (7) above shall be subject to the administrative control of the Chairperson.

(9) The salary and allowances payable to and other terms and conditions of service of Chairperson, member, secretary and staff of the National Commission shall be such as may be prescribed.

7. (1) The term of the National Commission shall be five years:

Terms of the Commission.

Provided that, the Central Government shall re-constitute the National Commission at least ten months prior to the end of the tenure of the current Commission:

Provided further that the existing National Commission may continue to function for upto one additional year if required till new Commission is constituted.

8. A member may, by writing under his hand and address to the Chairperson, resign from his office at any time.

Resignation of member.

9. A vacancy arising by reason of resignation of any member of the National Commission under sub-section (2) or otherwise shall be filled up in accordance with the provisions contained in section 6:

Vacancies of membership.

Provided that the person so appointed shall hold office only for the remaining period of term of the person, in whose place he is appointed;

10. The Central Government may remove any member, if he,—

Removal of a member.

(a) is declared as undischarged insolvent/debtor;

(b) becomes incapable of continuing as such, due to physical or mental disability;

(c) becomes of unsound mind and stands so declared by a court of competent jurisdiction;

(d) has been convicted for an offence, which in the opinion of the Government involves moral turpitude or financial irregularities;

(e) has, in the opinion of the Government, abused his/her official position so as to render his continuance in office prejudicial to public interest:

Provided that the member prior to his removal may be given an opportunity of being heard, before proceeding as such.

11. The National Commission shall regulate its own procedure for the conduct of its business based on principles of participation, transparency, equity, promptness, dignity and worth.

National Commission to regulate its own procedure.

12. (1) The National Commission shall exercise powers specified in sub-section (2) in those States where a State Commission under this Act or an equivalent Commission under an existing State Debt Relief Act is not in operation, and for those distress and calamity situations which affect two or more States and to make recommendations to the Central Government for farmers' distress and disaster relief.

Power and functions of the National Commission.

(2) The National Commission shall—

(a) recommend to the Central Government either *suo motu* or on an application to declare a district or districts or part thereof as distress affected area, or to declare a

crop or crops as distress affected crop, subsequent to which the Government is obligated to provide debt relief to related farmers:

Provided that—

(i) the recommendation may be made after such enquiry as it may deem fit including drawing upon required expertise from a committee of competent experts, and subject to such general guidelines as may be prescribed by the Central Government;

(ii) the commission shall submit its recommendations to the Central Government within one month of taking *suo motu* notice or on application made in this behalf; and

(iii) when the Central Government in any State declares certain regions, districts or parts of district as affected by natural calamity or disaster, those regions, districts or parts of district shall be considered as distress affected by the Commission under this Act.

(b) declare a farmer as distress affected in all those cases where individual farmers have applied to the National Commission following the due procedure laid down and subject to enquiry and norms as laid down, in those cases, where such farmers do not have a State Commission to apply to:

Provided that the National Commission shall complete its inquiry within three months after receipt of application in this behalf;

(c) issue orders as specified in section 14;

(d) exercise powers of Civil Court as specified under section 15;

(e) oversee the implementation of section 4 ensuring access to institutional credit to all farmers and to redress grievances thereof based on application by farmers or any associations or organizations representing farmers, registered or unregistered;

(f) recommend to the Central Government the extent and the manner in which any future debt relief may be granted to the farmers;

(g) recommend to the Central Government regarding the mechanisms for one time debt-swapping of non-institutional loans of distressed farmers and oversee the implementation of the same where State Commissions are not functional;

(h) recommend to the Central Government to take such action as may be necessary to ensure that future credit requirements of the farmers are met through such agencies, as may be prescribed;

(i) make periodical reports to the Central Government generally on any matter pertaining to farmers indebtedness;

(j) refer any pertinent matters to State Commission for further inquiry and action as well as to examine for consideration the recommendations given by the State Commissions to the National Commission; and

(k) perform such other functions and exercise such other powers as may be prescribed.

13. The Central Government shall, as soon as may be, but within a maximum time period of fifteen days after the receipt of a recommendation under clause (a) of sub-section (1) of section 8, by notification in the Official Gazette, declare an area or a crop as a distress affected area or a distress affected crop, as the case may be:

Provided that all farmers practicing agriculture in a distress affected area or cultivating the distress affected crop shall be considered as a distress affected farmers for the purposes of this Act;

Central
Government
to notify
distress
affected area
or distress
affected
crop.

14. (1) Any distress-affected farmer who has not received adequate relief under section 5 may file an application before the National Commission if a State Commission is not existing or operational, in a manner and in the form as may be prescribed, to obtain an injunction on further proceedings against himself by creditors until the adjudication is complete:

Provisions for orders for relief to distress affected farmers.

Provided that in all cases where State Commissions exists, the farmer shall file an application before the State Commissions pertaining to his State.

(2) Notwithstanding anything contained in this Act or in any other law or contract or decree or order of any court or Tribunal, the National Commission or any Bench thereof may pass order to:

(a) obligate the Central Government to repay the debt of an individual distressed farmer or all related farmers to crops or areas declared as distressed, against any creditor (private or institutional) based on prescribed guidelines for extreme distress;

(b) reschedule short-term loans into medium term loans with zero interest rate, and medium term loans into long term loans at a maximum of two per cent. interest rate, in respect of the debts availed or by a farmer from institutional creditors if the indebted farmer is found to be distressed or is related to a distressed crop or distressed area;

(c) provide necessary facilities for one time settlement of agriculture loans falling under the category of non-performing assets, as per the guidelines issued by the Reserve Bank of India, provided the farmer is ready for such settlement;

(d) declare as discharged from a loan, any farmers who has repaid the principal amount taken by him;

(e) a farmer to discharge his debts in suitable small instalments on the principal amount outstanding at the time of each payment, with the interest to be borne by the Central Government.

15. (1) The National Commission shall, for the purpose of exercising the powers conferred by or under this Act, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

Powers of a Civil Court.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) ordering that no notices shall be issued, no coercive action or public shaming shall be exerted against the distressed farmer in any manner;

(c) requiring the discovery and production of any documents;

(d) receiving evidence on affidavit;

(e) examination of witnesses;

(f) issuing commission for the examination of witnesses or for local investigation;

(g) inspecting any property or thing concerning which any decision has to be taken;

(h) requisitioning of any public record or copy thereof from any court, authority or office; and

(i) any other matter which may be prescribed.

(2) Every award passed by the National Commission under sub-section (2) of section 14 shall be binding on the respondent.

(3) Every award of the Commission passed under sub-section (2) of section 14 shall be executed under the provisions of the Code of Civil Procedure, 1908 as if it is decree of a Civil Court and accordingly, title deeds or any other documents pertaining to the loan with the creditor to be returned to the farmer, as the case may be, within the specified time:

Provided that the awards of the Commission shall be executed within a time period of thirty days or otherwise as specified in each award.

(4) Any farmer may obtain file for an Execution Decree from a Civil Court if the respondent fails to adhere to the time limit.

Sittings of
the
Commission.

16. (1) The National Commission shall hold its sittings at such places and at such times as may be determined by it:

Provided that the National Commission may hold its sittings in the respective district(s) declared as distress affected areas to consider matters relating to the distress affected areas;

(2) The quorum for the sitting of the National Commission shall be ordinarily five, except as provided below in sub-section (3);

(3) The National Commission may in appropriate cases as it deems fit, hold sittings in States or districts by constituting a Bench consisting of two or more members:

Provided that at least one member representing farmers in the National Commission shall be included in the Bench so constituted:

Provided further that in case of the Bench constituted by the National Commission, the quorum for the meeting of the Bench shall be the total number of members of that Bench or two whichever is less.

Bar and
Injunction on
proceedings
against a
distress
affected
farmer.

17. (1) No suit for recovery of debt shall be instituted or application for execution of a decree in respect of a debt shall be made against a distress affected farmer described under sections 12 and 14, and no appeal, revision petition or application for review against any decree or order in any such suit or application shall be presented or made against such distressed farmer in any Civil Court or Tribunal or other authority, and such suits, applications, appeals and petitions instituted or made against such farmer before the date of declaration of a district or part thereof as a distress affected area and pending on such date shall stand stayed, for such period as the Commission may recommend in that behalf;

(2) No notice shall be issued, and no coercive action or public shaming shall be exerted against any distress affected farmer described under section 12 and section 14 for recovery of debt.

Transparent
functioning
and Annual
Report to be
laid before
the
Parliament.

18. (1) The National Commission shall publish all relevant information including applications handled, awards passed, orders issued, minutes of its meetings or sittings, if any and such other material on its website.

(2) The National Commission shall prepare a report of its function of that year under this Act and the same shall be submitted to Central Government in such form on or before such date as may be prescribed.

(3) The Annual Report submitted to the Central Government by the National Commission under sub-section (2) above shall be laid before each House of the Parliament as soon as may be, but not later than the immediately subsequent session of the Parliament after the same is received by the Central Government.

Accounts and
Audit.

19. (1) The National Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed.

(2) The accounts of the National Commission shall be audited annually and the audited report shall be placed before each House of the Parliament.

CHAPTER VI

STATE FARMERS' DISTRESS AND DISASTER RELIEF COMMISSION

Constitution
of State
Farmers
Distress and
Disaster
Relief
Commission.

20. (1) Every State Government shall, within six months after implementing the immediate and complete loan waiver under Section 3 but within a maximum period of twelve months of the commencement of this Act, by notification in the Gazette, except in those States where a State Farmers' Debt Relief Act or an equivalent Act by any

other name is operational at the commencement of this Act, under which such a Debt Relief Commission or an equivalent institution has already been established, constitute a State Commission to be known as the State Farmers' Distress and Disaster Relief Commission for the purpose of exercising the powers and performing the functions under this Act.

(2) The State Commission shall consist of,—

(i) an eminent agricultural scientist or retired Vice Chancellor of an Agricultural University—Chairperson;

(ii) two agricultural experts in rural banking for agriculture—Members;

(iii) five representatives of farmers, including leaders of farmers unions and persons with a proven record of having worked on farmers' issues—Members; and

(iv) a person with having expertise in economic or co-operative sector—Member,

(3) The Chairperson and members shall be nominated by the State Government on the recommendation of a Selection Committee after seeking applications with wide publicity, from eligible persons.

(4) The Selection Committee shall consist of—

(i) the Chief Minister of the State who shall be the Chairperson;

(ii) the Leader of Opposition in the State Assembly or the leader of the single largest party or group in Opposition in the State Assembly; and

(iii) the Minister for Agriculture in the State Government:

Provided that—

(a) if an elected Government is not in place in the State, the Chairperson and Members shall be nominated by the Governor of the State; and

(b) a person shall be disqualified for appointment as a member if he,—

(a) has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has such other disqualifications as may be prescribed by the Government.

(5) The Selection Committee, while nominating a member under clause (ii), (iii) and (iv) of sub-section (2), shall take into consideration diversity in representation in terms of region, gender and social background including the Scheduled Castes and the Scheduled Tribes.

(6) The State Government shall ensure that no member including Chairperson represents any financial, commercial or other interest which may prejudicially affect the discharge of his functions on the Commission:

Provided that no person associated with a farmer's organization may be disqualified on that grounds alone.

(7) The State Government shall, in addition to provision of office facilities and infrastructure for effective functioning appoint in Secretary and other staff as may be necessary, to assist the State Commission in such manner as may be prescribed.

(8) In the discharge of their duties, the Secretary and other staff referred to in sub-section (6) shall be subject to the administrative control of the Chairperson.

Terms of the
State
Commission.

21. (1) The term of the State Commission shall be five years:

Provided that, the State Government shall re-constitute the State Commission at least ten months prior to the end of the tenure of the current State Commission:

Provided further that the existing State Commission may continue to function for upto one additional year if required till new State Commission is appointed.

(2) A member may, by writing under his hand and address to the State Government resign from his office at any time.

(3) A vacancy arising by reason of resignation of any member of the State Commission under sub-section (2) or otherwise shall be filled up in accordance with the provisions contained in section 20 of this Act:

Provided that the person so appointed shall hold office only for the remaining period of term of the person, in whose place he is appointed.

(4) The State Government may remove any member, if he,—

(a) is declared as undischarged insolvent or debtor;

(b) becomes incapable of continuing as such, due to physical or mental disability;

(c) becomes of unsound mind and stands so declared by a court of competent jurisdiction;

(d) has been convicted for an offence, which in the opinion of the State Government involves moral turpitude or financial irregularities:

(e) has, in the opinion of the State Government, abused his/her official position so as to render his continuance in office prejudicial to public interest:

Provided that the member prior to his removal may be given an opportunity of being heard, before proceeding as such.

(5) The State Commission shall regulate its own procedure for the conduct of its business based on principles of transparency, participation, equity, dignity and worth.

(6) The salary and allowances and the other conditions of service of Chairperson and Members of the State Commission shall be, as may be prescribed.

Powers and
functions of
the State
Commission.

22. (1) The State Commission shall—

(a) recommend to the State Government concerned either *suo motu* or on an application to declare a district or districts or part thereof as distress affected area, or to declare a crop or crops as distress affected crop, subsequent to which the State Government is obligated to provide debt relief to related farmers as recommended by the State Commission:

Provided that the State Commission shall make recommendation—

(i) the recommendation may be made after such enquiry as it may deem fit including drawing upon required expertise from a committee of competent experts; and subject to such general guidelines as may be prescribed.

(ii) the commission shall submit its recommendations to the Government within one month of taking *suo moto* notice or on application;

(iii) when the Government in any State declares certain regions, districts or parts of district as affected by natural calamity or disaster, those regions, districts or parts of districts shall be considered as distress affected area by the Commission under this Act;

(b) recommend, in the case of private loans, legal measures to the undertaken by the State Government, to exonerate the farmers from such loans whereby the State Government, as soon as possible, and upon the receipt of such a recommendation but within one month, notifies such private loans to be null and void;

(c) issue orders as specified under section 25;

(d) oversee the implementation of section 4 ensuring access to institutional credit to all farmers, and to redress grievances thereof, based on application by farmers or any associations or organizations representing farmers, registered or unregistered;

(e) oversee one time debt-swapping of private loans into institutional loans of distressed farmers within the State;

(f) make periodical reports to the State Government generally on any matter pertaining to farmer indebtedness;

(g) make specific recommendations to the National Commission to consider;

(h) recommend any other measures for survival of distressed farmers; and

(i) perform such other functions and exercise such other powers, as may be prescribed.

(2) An Award passed by the State Commission under section 25 shall be binding on the respondent.

(3) Every award by the State Commission shall be passed within six months of the time of receipt of application from an indebted farmer, with the first screening of paperwork happening within thirty days and first hearing happening within sixty days.

(4) Every award of the State Commission passed under section 22 shall be executed under the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as if it is a decree of a Civil Court, and accordingly, title deeds or any other documents pertaining to the loan with the creditor to be returned to the farmer, as the case may be within the specified time:

Provided that every award of the State Commission shall be executed within a specific time period of thirty days or otherwise, as specified in each award:

Provided further that a farmer may obtain an Execution Decree from a Civil Court if the respondent party does not comply to the time limit for the execution of the award.

(5) The State Commission shall, for the purpose of exercising the powers conferred by or under this Act, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure 1908 (5 of 1908) in respect of the following matters, namely:—

(a) summoning and enforcing attendance of any person and examining him on oath;

(b) Ordering in that no notices shall be issued, no coercive action or public shaming shall be exerted against the distressed farmer in any manner;

(c) requiring the discovery and production of any documents;

(d) receiving evidence on affidavit;

(e) examination of witnesses;

(f) issuing commission for the examination of witness or for local investigations;

(g) inspecting any property or thing concerning which any decision has to be taken;

(h) requisitioning of any public record or copy thereof from any court, authority or office; and

(i) any other matter which may be prescribed.

23. The State Government concerned shall, as soon as may be, but within a maximum time period of fifteen days after the receipt of a recommendation under clause (a) of sub-section (1) of section 22 notify in the Official Gazette, an area or a crop as a distress affected area or a distress affected crop, as the case may be and thereby initiate the debt relief powers of the Commission:

State Government to notify distress affected area or distress affected crop.

Provided that all farmers practicing agriculture in a distress affected areas as declared or cultivated the distress affected crop as declared, shall be considered distress affected farmers under this Act.

Sittings of
the State
Commission.

24. (1) The State Commission shall hold its sittings at such places and at such times as may be determined by it:

Provided that the State Commission shall hold its sittings in the respective district(s) declared as distress affected areas to consider matters relating to the distress affected areas.

(2) The quorum for the sitting of the State Commission shall be five.

(3) The State Commission may in appropriate cases it deems fit, hold sittings in districts by constituting a Bench consisting of two or more members:

Provided that at least one member representing the farmer in the State Commission shall be included in the Bench so constituted:

Provided further that in case of the Bench constituted by the State Commission, the quorum for the meeting of the Bench shall be the total number of members of that Bench or two whichever is less.

Provisions
for Orders
from State
Commission
for relief to
distress
affected
farmers.

25. (1) Every farmer from the State, who has not obtained adequate relief under section 5 may, file an application before the State Commission, in a manner and in the form as may be prescribed, to obtain an injunction on further proceedings against himself by creditors until the adjudication is complete.

(2) Notwithstanding anything contained in this Act or in any other law or contract or decree or order of any Court or Tribunal, the State Commission or any of its Benches thereof may pass order to:—

(a) obligate the State Government to repay the entire debt of a distress affected farmer so declared by the State Commission, against any creditor (private or institutional);

(b) reschedule short-term loans into medium term loans with zero interest rate, and medium term loans into long term loans at a maximum of two per cent interest rate, in respect of the debts availed of by a farmer from institutional creditors;

(c) provide necessary facilities for one time settlement of agriculture loans falling under the category of non-performing assets, as per the guidelines issued by the Reserve Bank of India, provided the farmer is ready for such settlement;

(d) declare as discharged from a loan, any farmer who has repaid the principal amount taken by him or her;

(e) allow a farmer to discharge his debts in suitable small installments on the principal amount outstanding at the time of each payment, with the interest to be borne by the Government.

Bar and
Injunction on
proceedings
against a
distress
affected
farmer, as
per State
Commission
recommendations.

26. (1) No suit for recovery of debt shall be instituted, or application for execution of decree in respect of a debt shall be made against a distress affected farmer described under sections 20 and 22, and no appeal, revision petition or application for review against any decree or order in any such suit or application shall be presented or made against a distressed farmer in any Civil Court, or Tribunal or other authority, and such suits, applications, appeals and petitions instituted or made against such a farmer before the date of declaration of a district or part thereof as a distress affected area and pending on such date shall stand stayed, for such period as the State Commission may recommend in that behalf;

(2) No notices shall be issued, and no coercive action or defamation in public shall be exerted against a distress affected farmer described under section 19 and section 22, for recovery of debt.

27. (1) The State Commission shall publish all relevant information including the applications received, Awards passed, minutes of its meetings or sittings, if any, and such other material on its website.

Transparent functioning and Annual report to be laid before the State Legislature.

(2) The State Commission shall prepare a report of its function of that year under this Act and shall submit the same to State Government in such form on or before such date as may be prescribed.

(3) The Annual Report submitted to the State Government by the State Commission under sub-section (2) shall be laid before the State Legislative Assembly as soon as may be, after the same is received by the State Government.

28. (1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form as may be prescribed.

Accounts and Audit related to State Commission.

(2) The accounts of the State Commission shall be audited annually and the audit report shall be placed before the Legislative Assembly.

CHAPTER VII

OBLIGATIONS OF CENTRAL GOVERNMENT

29. (1) The Central Government shall reserve and spend adequate financial outlays in the Union Budget as required under this Act for the immediate one-time loan waiver on an annual basis to implement the award passed and orders issued by the Commission.

Central Government to constitute a Fund for the purpose of waiving off loan, etc.

(2) The financial outlay under sub-section (1) shall also be utilised for—

(a) relief and rehabilitation of families where a farmer suicide has taken place in the last five years from the commencement of this Act; and

(b) a part of the outlay shall be set aside as a Credite Guarantee Fund for lessee cultivators to build confidence among institutional creditors to lend to lessee cultivators for re-financing of institutional creditors during continuous natural disasters.

30. (1) The Central Government shall notify—

(a) certain categories of property related to certain loans to be exempted from attachment or auctioning for non-payment of debt; and

(b) prohibition of penal interest on crop loans and cumulative interest on any agricultural loan from exceeding the principal of the loan, whether from an institutional or private creditor.

Exemption from attachment of property and prohibition of penal interest and excessive cumulative interest.

31. The Central Government shall reform the priority sector lending norms ensuring that the bank credit under priority sector lending reaches small and marginal farmers and real farmers including women farmers, tenants, sharecroppers and adivasi farmers, ensure that its compliance is addressed by the Reserve Bank of India, NABARD and other apex institutions with re-financing schemes to such compliance.

Reform of Priority Lending Norms and ensuring compliance.

32. (1) The Central Government shall implement adequate and effective disaster relief and insurance for all crops, live stock and allied sectors, to ensure that in years of disaster including drought, floods, cyclones, unseasonal rainfall, hailstorms and pest outbreaks, and destruction by wild animals etc., the farmers do not accumulate debt.

Effective disaster relief and crop insurance.

(2) The insurance premium in respect of the crop insurance scheme mentioned under sub-section (1) shall be borne by the appropriate Government.

33. The Central Government shall establish and promote on a large scale low-cost ecological agriculture as a measure to reduce indebtedness amongst farmers.

Promotion of low cost ecological agriculture.

CHAPTER VIII

MISCELLANEOUS

Overriding
effect of Act.

34. The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law, other than this Act, or any instrument having effect by virtue of any law other than this Act.

Bar of
jurisdiction of
Civil Court.

35. No civil courts shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under the Act or the rule made thereunder are required to be settled, decided or dealt with or to be determined by the National or State Commissions;

Members and
Staff of
Commissions
deemed Public
Servants.

36. Every Member, secretary and other staff of the Commission (National as well as State) shall be deemed to be a Public Servant within the meaning of section 21 of the Indian Penal Code 1860.

Protection of
action taken
in good faith.

37. No suit or legal proceeding shall lie against any member of the Commission or Secretary or other officers for anything which is done or purported to be done in good faith under this Act.

Power to
remove
difficulties.

38. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order as occasion requires, do anything not inconsistent with the provisions of this Act, which appears to them to be necessary for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid before each House of Parliament.

Power to
make rules.

39. (1) The appropriate Government may, notification in the Gazette, make rules for the purpose of carrying in to effect the provisions of this Act.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this Act shall laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

The nation is indebted to farmers for the food security and sovereignty functions that they contribute. In spite of their contribution, thousands of farmers are committing suicide every year and millions of farmers are in distress due to indebtedness. The Government is obligated to prevent farmer's suicides and distress, especially because their causes are related to Government policies.

Prices of farm commodities have been kept low as a policy measure and the recommendation of the National Farmers Commission to fix Minimum Support Prices with at least fifty *per cent.* returns on the comprehensive cost of production has not been implemented for the past twelve years, thus adversely affecting farmers' returns and building up indebtedness.

The Governments have not fulfilled their responsibilities to provide comprehensive institutional credit facilities, provide recognition and full inclusion to many categories of farmers including tenant farmers, women farmers and *adivasi* farmers, execute effective risk insurance and disaster relief measures, keep input prices in check and effectively promote low cost sustainable agriculture and to build infrastructure. These failures on the part of the Government have resulted in huge losses to farmers, leading to a debt trap, with both institutional and private creditors. In the context of frequent occurrence of natural calamities and climate change, farmers need automatic protection from the debt trap during disasters.

It has been held that the Right to Life guaranteed under article 21 of the Constitution includes the right to live with human dignity and the right to livelihood. Thus, the Government is obligated to ensure a life of dignity and freedom from indebtedness to farmers who are in debt due to no fault of theirs and for reasons not under their control.

In order to provide relief to the farmers who are in distress due to indebtedness, the Bill provides an immediate and complete loan waiver. To prevent farmers from being pushed back into indebtedness, there is need to provide systemic changes in all farmers into the fold of institutional credit with zero interest rate, and for substantive debt relief in the case of disasters. The Reserve Bank of India and NABARD shall be mandated to ensure compliance.

Farmers' Distress and Disaster Relief Commissions shall be constituted at the national and State levels with power to pro-actively recommend relief measures in distress affected areas and distress affected crops, and pass awards for the redressal of the grievances of indebted farmers in various ways. The Bill also obligates suggests the Government to institute effective disaster relief and crop insurance and promotion of low-cost ecological agriculture, and furthermore, seeks to provide special support to families affected by a farmer suicide.

As the root causes of indebtedness and the increasing incidence of natural disasters due to climate change are common in various States across the country, there is a need for a Central legislation to address the problem and to provide the necessary relief and institutional framework for protection of farmers from indebtedness. In view of the guidelines by the Supreme Court for harmonization of Entry 45 of the Union List and Entry 30 of the State List, the Bill provides a national framework with the cooperation of State Governments, for the implementation of distress relief at the national and State level, with adequate resource support from the Central Government.

Hence, this Bill.

NEW DELHI;
April 6, 2018.

RAJU SHETTI

FINANCIAL MEMORANDUM

Clause 3 of the Bill *inter alia* provides for sufficient funds by the Central Government for immediate one-time loan waiver.

Clause 4 of the Bill *inter alia* provides for sufficient funds by the Central Government for bringing all farmers into the fold to institutional credit for production loans at zero per cent interest rate, and for reschedule, relief of waivers at the time of disasters.

Clause 5 provides for constitution of the National Farmers' Distress and Disaster Relief Commission and ensuing expenditure.

Clause 26 provides for adequate financial outlays for implementing the awards and orders issued by the Commission (National and State), for relief and rehabilitation of farm suicide families, and a Credit Guarantee Fund that addresses the inclusion of lessee/tenant farmers into institutional credit.

Clause 30 provides for implementation of adequate and effective disaster relief and crop insurance schemes.

Clause 31 provides for establishment and promotion of low cost ecological agriculture on a large scale.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. However, it is not possible at this stage as to the exact amount which is likely to be incurred towards recurring and non-recurring expenditure for the purpose.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 39 of the Bill empowers the appropriate Government to make rules for carrying out the purpose of this Act. As the rules will relate to matters of detail only, the delegation of legislative power is, therefore, of a normal character.

BILL NO. 115 OF 2018

A Bill to confer a right on every farmer to guaranteed remunerative minimum support prices for agricultural produce with minimum fifty percent. profit margin above comprehensive cost of production upon sale of agricultural commodities and for matters connected therewith or incidental thereto.

WHEREAS safeguarding the right to livelihood is essential for the realization of right to life guaranteed under article 21 of the Constitution;

AND WHEREAS article 38 (2) of the Constitution provides that the State shall, in particular, strive to minimize the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations;

AND WHEREAS article 39 (a) of the Constitution provides that the State shall direct its policies towards securing that the citizens, men and women equally, have the right to an adequate means of livelihood;

AND WHEREAS article 43 of the Constitution provides that the State shall endeavour to secure, by suitable legislation or economic organization, or in any other way, to all workers,

agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure, social and cultural opportunities;

AND WHEREAS farmers do not get adequate return of their investment and toil despite good production, and therefore their condition is steadily deteriorating and leading to commit suicide by tens of thousands of farmers every year;

AND WHEREAS consumer interests have been justifiably protected through National Food Security Act 2013 and Essential Commodities Act 1955 so that adequate food is affordable and available for needy citizens and shall continue to be so;

AND WHEREAS the input cost is increasing beyond the meager means of farmers;

AND WHEREAS the price realized by farmers for their agricultural commodities is not providing sufficient returns in compare of the cost of production to provide income even to sustain basic needs of the household;

AND WHEREAS the National Farmers Commission had recommended a principle for remunerative prices to be fixed with a minimum profit margin of at least fifty per cent over and above the comprehensive cost of production;

AND WHEREAS ensuring adequate returns in agriculture is essential to safeguarding the food security of the nation, especially in the context of shrinking landholdings and decreasing livelihood opportunities;

AND WHEREAS the Government is duty bound to take steps to prevent suicides by farmers due to their pitiable economic condition;

AND WHEREAS social security is listed at entry 23 of List III (Concurrent List), the subject of trade and commerce in, and the production, supply and distribution of food stuffs, cattle fodder, raw cotton, raw jute at entry no. 33 in List III, the subject of price control is listed at entry 34 in List III and any refund payable for difference between prices realized in the market on production of receipts shall be paid from any Bank under Negotiable Instruments Act, 1881 covered under Banking at entry 45 of List I;

AND WHEREAS for the above reasons, it is essential to provide farmers with a right to guaranteed remunerative minimum support prices for all agricultural commodities;

BE it enacted by Parliament in the Sixty-ninth year of the Republic of India, as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Farmers' Right to Guaranteed Remunerative Minimum Support Prices for Agricultural Commodities Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government, may by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise require,—

(a) "agricultural commodity" means all cereals, all millets, all pulses, all oilseeds, all fibre crops, all horticulture crops of fruits and vegetables, all spice crops, all tuber crops, all medicinal plants, all varieties of milk, all minor forest produce, floriculture, grass, fodder grass and tree produce, nursery produce, all plantation produce, all animal products like meat and mutton, eggs and poultry, all fishery produce like fish mussel, marine fish, freshwater aquatic produce, honey, silkworm cocoons, and all such other primary produce and agricultural commodity with all its cognate expressions;

(b) "agricultural expert" includes a person by virtue of academic qualification or with proven work record and having at least fifteen years practical or management experience in agriculture-related sectors;

(c) “appropriate Government” means in the case of a State the Government of that State, and in all other cases, the Central Government;

(d) “guaranteed remunerative minimum support price” means the price that ensures a minimum fifty *per cent.* profit margin over and above the comprehensive cost of production of a given agricultural commodity as determined under section 5 and notified under section 6, to which shall be added the bonus announced by the State Government wherein the comprehensive cost of production at the State level is covered with at least a fifty *per cent.* profit margin over and above such cost of production; and in the case of standing (plantation) crops, as specifically determined by the Commission and guided by Schedule I to this Act;

(e) “Central Commission” means the Central Farmers’ Agricultural Costs and Remunerative Price Guarantee Commission constituted under section 8;

(f) “cost of production” means the comprehensive cost as estimated under section 4 and based on Schedule I;

(g) “farmer” means a person engaged in the economic and livelihood activity of agriculture in terms of growing crops, or producing other primary agricultural commodities with or without land ownership, and includes all agricultural operational holders, cultivators, agriculture labourers, sharecroppers, tenants, poultry and livestock rearers, fishers, beekeepers, pastoralists, non-corporate planters and planting labourers as well as forest-produce-gatherers, farmers groups, producer cooperatives or self-help Groups performing cultivation on collectively owned or leased-in land and also includes women farmers.

(h) “Fund” means the State Compensation Fund maintained and administered by the State Commission under section 16;

(i) “market” means regulated markets, systems of procurement of agricultural commodities run by State procurement agencies, consumer or service cooperatives, corporations as well as contract farming arrangements (formal or informal) that different entities have, for procuring agricultural commodities from farmers, including milk collection centers, and procurement centers opened by different public sector agencies and other market yards run by Government agencies including Panchayats and cooperatives and includes private markets;

(j) “member” means a member of the Commission (Central or State) and includes the Chairperson;

(k) “prescribed” means prescribed by rules made under this Act;

(l) “State Commission” means the State Farmers’ Agricultural Costs and Remunerative Price Guarantee Commission constituted under section 13; and

(m) “trader” means any individual, or any other entity including sole proprietorship, a partnership firm, public sector or corporate entity that purchases agricultural commodities from farmer directly.

CHAPTER II

GUARANTEED REMUNERATIVE MINIMUM SUPPORT PRICE FOR ALL AGRICULTURAL COMMODITIES

3. Every farmer shall be entitled to a guaranteed remunerative minimum support price against sale of any agricultural commodity.

Right of every farmer to guaranteed remunerative minimum support prices for Agricultural commodity.

Comprehensive estimation of cost of production of all agricultural commodities.

4. (1) The Central Government shall, through the Central Commission, institute robust, comprehensive and accurate system for estimation of comprehensive cost of production as defined in the Schedule for all agricultural commodities.

(2) The cost of estimation under sub-section (1) shall be comprehensive with all paid-out costs as well as imputed costs including family labour at skilled wage rates as those that pertain to the State or region, rental value of land, interest on assets and remuneration calculated for managerial functions performed by the farm household, in addition to depreciation of assets and other components as listed in Schedule I and shall take into account the period of each crop into consideration:

Provided that agricultural commodities where the system of cost estimation is not available, the Central Government shall institute such systems that require data collection on a timely basis consisting of the actual average yield for the past five years, in a rolling manner and the estimation (data, methodology, sampling and statistical analyses) shall be periodically reviewed and implemented.

Determination of Guaranteed Remunerative Minimum Support Price.

5. (1) The Central Commission shall determine the guaranteed remunerative minimum support price for each agricultural commodity and recommended the same to the Government as provided under section 10.

(2) The recommendation made by the Central Commission under sub-section (1) shall be the basis for the Central Government to notify the guaranteed remunerative minimum support price for each agricultural commodity.

Notification of guaranteed remunerative minimum support prices.

6. (1) The Central Government shall, as soon as may be, but within one month after the receipt of recommendation of the Central Commission, notify the guaranteed remunerative minimum support price of all agricultural commodities.

(2) The guaranteed remunerative minimum support price of agricultural commodities under sub-section (1) shall be notified by the Central Government on or before 28th day of February every year for the ensuing kharif production season and on or before the last day of July every year for the ensuing rabi production season, as the case may be.

State Government to notify bonus.

7. The State Government shall, within fifteen days after receiving a recommendation from State Commission, notify a bonus in addition to the guaranteed remunerative minimum support price notified by the Central Government under section 5:

Provided that the additional cost of the bonus shall be borne by the State Government.

CHAPTER III

CENTRAL FARMERS' AGRICULTURAL COSTS AND REMUNERATIVE PRICE GUARANTEE COMMISSION

Constitution of the Central Farmers' Agricultural Costs and Remunerative Price Guarantee Commission.

8. (1) The Central Government shall, by notification in the Official Gazette, constitute an autonomous body corporate to be known as the Central Farmers' Agricultural Costs and Remunerative Price Guarantee Commission (hereinafter referred to as the Central Commission) for the purpose of exercising the powers and performing the functions assigned to it under this Act.

(2) The Central Commission shall consist of—

(a) a full time Chairperson, who shall be a farmer and well qualified and experienced in agricultural economics and conversant with various agricultural aspects; faculties;

(b) five representatives of farmers including representatives of Farmers Organisations and persons, including women, with proven record of having worked on farmers' issues and good knowledge of agricultural economy, representing, as far as possible, from the different regions of the country—*non-official members*;

(c) three agricultural experts having requisite academic qualification in Agricultural Economics or any faculty incidental thereto, and with at least fifteen years of experience in the field of expertise—*non-official members*;

(d) an official not below the rank of Joint Secretary to the Union Ministry of Agriculture and Farmers Welfare, Department of Agriculture, Co-operation and Farmers Welfare—*Member*;

(e) an official not below the rank of Deputy Secretary to the Union Ministry of Agriculture and Farmers Welfare, Department of Agriculture, Co-operation and Farmers Welfare—*Member Secretary*, to be appointed by the Central Government in such manner as may be prescribed:

Provided that one of the non-official members shall be appointed as Vice-Chairperson so that proceedings are not affected in the absence of the Chairperson for any reason to be appointed by the Central Government in such manner as may be prescribed.

(3) The Chairperson and members of the Central Commission shall be nominated by the President of India on the recommendation of a Selection Committee consisting of—

(i) the Prime Minister who shall be the Chairperson;

(ii) the Leader of Opposition in House of the People or the leader of the single largest group or party in opposition in House of the People; and

(iii) the Union Minister for Agriculture and Farmers Welfare.

(4) The Selection Committee shall, while nominating the Chairperson or a Member, take into consideration equitable regional representation from across the country, sectoral representation (cultivation, plantation, livestock, fisheries, agricultural labour, forest-produce-gathering), gender and social background on a rotational basis for representation of different States every time the Commission is re-constituted or vacancies filled:

Provided that in case of member nominated under clauses (b) and (c) of sub-section (2), the Selection Committee shall take into account the representation of the Scheduled Castes and the Scheduled Tribes.

(5) The Central Government shall ensure that no member including the Chairperson represents any conflict of interest in discharge of his functions.

(6) The Chairperson and the members of the Central Commission shall not be a sitting Member of Parliament or a Member of State Legislature of any State or Union territory, as the case may be, or hold any other office of profit.

(7) The Central Government shall appoint such number of staff members as may be necessary to assist the Central Commission in such manner as may be prescribed.

(8) In the discharge of their duties, the member Secretary and other staff referred to in sub-section (7) shall be subject to the administrative control of the Central Commission, represented by Chairperson.

9. (1) The term of the Central Commission shall be five years:

Provided that the Central Government shall re-constitute the Central Commission at least ten months prior to the end of the tenure of the existing Commission:

Provided further that any of the members of the existing Commission may be re-nominated to the National Commission.

(2) The Chairperson and the non-official members shall not be removed from his office except after due enquiry made by the sitting judge of the High Court of Delhi and recommended as such to the President.

(3) Any member may, by writing under his hand and addressed to the Central Government, resign his office at any time.

Term of the Central Commission and conditions of service of the members.

(4) Any vacancy arising by reason of resignation of any member of the Central Commission under sub-section (3) shall be filled up within six months in accordance with the provisions contained in section 7:

Provided that the person so appointed shall hold office only for the remaining period of term of the person in whose place he is appointed.

(5) The Central Government may remove any member, if he,—

(a) is declared as undischarged insolvent;

(b) becomes incapable of continuing as such due to physical or mental disability;

(c) becomes of unsound mind and stands so declared by a court of competent jurisdiction;

(d) has been convicted for an offence, which in the opinion of the Central Government involves moral turpitude or financial irregularities;

(e) has, in the opinion of the Government, abused his official position so as to render his continuance in office prejudicial to public interest.

(6) The Central Commission shall regulate its own procedure for the conduct of its business with principles of participation, transparency and equity incorporated with periodic consultations organized with representatives of State Commissions, State Governments and farmer organisations across the country.

(7) The terms and conditions of service and the salary and allowances payable to the Chairperson, non-official members and staff of the Central Commission shall be such as may be prescribed.

10. (1) The Central Commission shall,—

(a) recommend guaranteed remunerative minimum support price to the Central Government for all agricultural commodities having a profit margin of at least fifty *per cent.* over and above the comprehensive cost of production based on Schedule I;

(b) recommend additional incentives on specified agricultural commodities for fulfilling social or environmental policy imperatives:

Provided that the Central Commission may additionally take into consideration the recommendations from the State Commissions while finalizing its recommendation for additional incentives;

(c) recommend such measures that assure a remunerative and stable price environment for farmers including improvements in the storage and marketing infrastructure and procedures as well as adequate and appropriate support to producer organisations;

(d) monitor the prices being realised by farmers for various agricultural commodities all over the country and forward prompt advisories to all concerned agencies or departments for effective action to be taken;

(e) recommend to the Central Commission on all international trade agreements which affect agriculture directly or indirectly and report to the Central Government for the consideration of its recommendations; and

(f) recommend to the Central Government regulation of cost of agricultural inputs including seeds, fertilisers, pesticides, electricity, diesel and farm equipment.

(2) The Central Commission shall submit the recommendations to the Central Government for guaranteed remunerative minimum support price of all agricultural commodities for each year before the 15th day of February for the upcoming kharif season of that year and before the 15th day of July for the upcoming rabi season of that year.

11. (1) The Central Commission shall publish all relevant information including the cost estimations, basis of guaranteed remunerative minimum support prices, market price trends and ensuing action, recommendations, minutes of its sittings and any other material on its website in such manner as may be prescribed.

Powers and functions of the Central Commission.

Publication of all relevant information on website of the Central Commission.

(2) The Central Commission shall prepare an annual report of its functioning of that year and shall submit to the Central Government in such form on or before such date as may be prescribed.

(3) The Central Government shall, on receipt of the annual report under sub-section (2), cause it to be laid before each House of the Parliament, as soon as may be, after the same is received by it.

12. (1) The Central Commission shall maintain proper accounts and other Accounts and relevant records and prepare annual statements of accounts in such form as may be prescribed.

Accounts and
Audit.

(2) The accounts of the Central Commission shall be audited annually and the audit report shall be placed before each House of the Parliament, along with the Annual Report by the Central Government.

CHAPTER IV

STATE FARMERS' AGRICULTURAL COSTS AND REMUNERATIVE PRICE GUARANTEE COMMISSION

13. (1) The State Government shall, within six months after the commencement of this Act, by notification in the Official Gazette, constitute an autonomous body corporate to be known as the State Farmers' Agricultural Costs and Remunerative Price Guarantee Commission (hereinafter referred as State Commission) for the purpose of exercising the powers and performing the functions under this Act, and recommending and implementing the guaranteed remunerative minimum support prices for all agricultural commodities in the State.

Constitution
of State
Farmers'
Agricultural
Costs and
Remunerative
Price
Guarantee
Commission.

(2) The State Commission shall consist of,—

(a) a full time Chairperson, who shall be a farmer and well qualified and experienced in agricultural economics and conversant with various agricultural faculties;

(b) five representatives of farmers including representatives of Farmers Organisations and persons, including women, with proven record of having worked on farmers' issues and good knowledge of agricultural economy, representing, as far as possible, from the different regions of the State—*non-official Members*;

(c) one agricultural expert or research scientist having requisite academic qualifications in agricultures, Agricultural Economics or Agricultural Science, and with at least fifteen years of experience in the field of expertise—*non-official Members*;

(d) four officials each from the Department of Agriculture, Horticulture, Animal Husbandry and Fisheries to be recommended by the Directors of the Department of the State Government concerned—*Members*;

(e) an official of Department of Agricultural Marketing or equivalent of the State Government concerned — *Member Secretary*,

to be appointed by the State Government in such manner as may be prescribed:

Provided that one of the non-official members shall be designated as Vice-Chairperson so that proceedings are not affected in the absence of the Chairperson for any reason to be appointed by the State Government in such manner as may be prescribed.

(3) The Chairperson and members of the State Commission shall be nominated on the recommendation of a Selection Committee consisting of—

(i) the Chief Minister who shall be the Chairperson;

(ii) the Leader of Opposition in the State Assembly or the leader of the single largest group or party in opposition in the State Assembly; and

(iii) the Minister for Agriculture of the State Government concerned.

(4) The Selection Committee shall, while nominating the Chairperson or a Member, take into consideration equitable regional representation from across the State, sectoral representation, gender and social background on a rotational basis for representation of different regions within a State every time the State Commission is re-constituted or vacancies filled:

Provided that in case of member nominated under clauses (b) and (c) of sub-section (2), the Selection Committee shall take into account the representation of the Scheduled Castes and the Scheduled Tribes.

(5) The State Government shall ensure that no member including Chairperson represents any conflict of interest in discharge of his functions.

(6) The State Government shall appoint such member of staff members as may be necessary to assist the State Commission in such manner as may be prescribed.

(7) In the discharge of their duties, the member Secretary and other staff referred to in sub-section (6) shall be subject to the administrative control of the State Commission, represented by the Chairperson.

Term of the
State
Commission
and
conditions of
service of the
members.

14. (1) The term of the State Commission shall be five years:

Provided that the State Government shall re-constitute the State Commission at least ten months prior to the end of the tenure of the existing Commission:

Provided further that the State Government may extend the term of the existing Commission if it deems necessary.

(2) The Chairperson and the non-official members shall not be removed from his office except after due enquiry made by the sitting judge of the High Court of the State concerned and recommended as such to the State Government.

(3) Any member may, by writing under his hand and addressed to the State Government, resign his office at any time.

(4) Any vacancy arising by reason of resignation of any member of the State Commission under sub-section (3) above or otherwise shall be filled up in accordance with the provisions contained in section 12:

Provided that the person so appointed shall hold office only for the remaining period of term of the person in whose place he is appointed.

(5) The State Government may remove any member, if he,—

(a) is declared as undischarged insolvent;

(b) becomes incapable of continuing as such due to physical or mental disability;

(c) becomes of unsound mind and stands so declared by a court of competent jurisdiction;

(d) has been convicted for an offence, which in the opinion of the Central Government involves moral turpitude or financial irregularities;

(e) has, in the opinion of the Government, abused his official position so as to render his continuance in office prejudicial to public interest.

(6) The State Commission shall regulate its own procedure for the conduct of its business based on principles of participation, transparency and equity and shall include periodic consultations with representatives of farmer organisations from various regions of the State representing different sectoral interests.

(7) The terms and conditions of service and the salary and allowances payable to the Chairperson, non-official members and staff of the State Commission shall be such as may be prescribed.

(8) The headquarters of the State Commission shall be at the capital of the State Government concerned.

(9) The Chairperson and the members of the State Commission shall not be a Member of Parliament or Member of State Legislature of any State or Union territory, as the case may be, or hold any office of profit.

15. (1) The State Commission shall,—

(a) recommend to the Central Commission the guaranteed remunerative minimum support price of all agriculture commodities for the State for each year, having regard to the factors mentioned in Schedule 1, ensuring that such recommendation is made before the 31st day of January for the upcoming kharif season and before the 30th day of June for the upcoming rabi season;

(b) recommend to the State Government higher prices that shall be fixed as the State level guaranteed remunerative minimum support price including a bonus as specified under section 7 and applicable only within that State, over and above the guaranteed remunerative minimum support price notified by the Central Government taking into account a minimum fifty *per cent.* profit margin over any higher cost of production in the State, and other policy considerations of incentivizing particular crops and commodities for balanced and sustainable agricultural growth;

(c) recommend guaranteed remunerative minimum support price for agricultural commodities which have been left out by the Central Commission for any reason;

(d) monitor the price situation in various markets on a regular basis and to send advisories based on such monitoring, for appropriate action to be taken, and oversee the implementation of such advisories by the State Government for their efficacy;

(e) inquire into failures to discharge duties, on particular public servants and authorities as well as contract farming cases and recommend penalties to be imposed as per section 26;

(f) recommend to the Central Commission on matters related to the State;

(g) maintain a fund for paying compensation to farmers, as ordered by the Taluka Level Committee for non-receipt of guaranteed remunerative minimum support prices or delayed payment for sale of agricultural commodity as specified under section 27; and

(h) recommend to the State Government regulation of cost of all agricultural inputs including seeds, fertilisers, pesticides, electricity, diesel and farm equipment.

(2) The State Commission shall publish all relevant information including its cost estimations, basis for bonus recommendations, market price trends and ensuing action and recommendations, inquiry reports as per sub-section (1) above, minutes of its meetings or sittings and any other material on its website.

(3) The State Commission shall prepare a report of its functioning of that year under this Act and the same shall be submitted to the State Government in such form on or before such date as may be prescribed:

Provided that the annual report submitted to the State Government by the State Commission shall be laid before each House of the State Legislature, as soon as may be, and certainly in the ensuing Session of the Legislature, after the same is received by the State Government.

(4) The State Commission shall maintain proper accounts and other relevant records and prepare annual statement of accounts in such form as may be prescribed:

Provided that the accounts of the State Commission shall be audited annually and the audited report shall be placed before each House of the State Legislature, along with the annual report.

Powers and functions of the State Farmers' Agricultural Costs and Remunerative Price Guarantee Commission.

Constitution
of State
Compensation
Fund.

16. (1) The State Commission shall, by notification in the Official Gazette, constitute and maintain a State Compensation Fund consisting of allocations from the Central Government and funds collected as penalties for offences punishable under this Act.

(2) The Funds shall be utilized for compensation payments to farmers as required and as specified under section 27.

CHAPTER V

IMPLEMENTATION OF GUARANTEED REMUNERATIVE MINIMUM SUPPORT PRICES

Bar on
auction or
offer of price
below
guaranteed
remunerative
minimum
support
prices.

17. (1) It shall be the duty of the appropriate Government to ensure that all agricultural markets including Agriculture Produce Market Committee establishment by the State Government concerned, the auction or offer price for every agricultural commodity begin with the guaranteed remunerative minimum support price as the floor price and no auction shall be allowed below the said price.

(2) Any agreement entered into orally or by any other means, between purchaser/traders or commission agents that directly or indirectly results in bid rigging or collusive bidding, that limits, controls or attempts to control the sale or price of or trade in agriculture commodities or provision of services in the market or outside market with intent to suppress the prices, shall be presumed to have an appreciable adverse effect on guaranteed remunerative minimum support price and shall be illegal and liable for penalties mentioned under section 25, including cancellation of license by the concerned authorities on complaint by the aggrieved farmers or public interest group or upon *suo-motu* monitoring, public interest groups and surveillance by designated public authorities.

(3) Any trader, including a trader in any contract farming arrangement, purchasing any commodity below the guaranteed remunerative minimum support price shall be liable for penalties under section 25 including termination of his contract by the State Government's designated authority upon due inquiry into any complaint by the aggrieved farmers.

(4) Any trader who abstains from purchasing any agricultural commodity with a view to violate the rights conferred on farmers as per the provisions of this Act, especially during the quarter succeeding the seasonal harvest of a given commodity shall be liable for penalties under section 25 including cancellation of his license by the State Government:

Provided that any trader may take resort to the grievance redressal mechanism prescribed under section 27.

Appropriate
Government
to open
Procurement
Centres.

18. The appropriate Government shall—

(a) open adequate number of procurement centres for all agricultural commodities, either directly, or through designated procurement agencies or through trader's bodies, self help groups or Farmer Producer Organisations, in a localized manner as far as possible, for procuring sufficient quantities for food security schemes and commodity corporations at or above guaranteed remunerative minimum support price;

(b) provide adequate arrangements at least four weeks before the beginning of the harvest of the particular crop including storage facilities and transportation including weighing scales, gunny bags, testing and other required equipment for such procurement operations;

(c) ensure instant and same-date payment directly to the farmer by the procurement agency; and

(d) ensure sufficient publicity of the procurement centre operations within the jurisdiction of such a centre.

Timely and
effective
market
intervention
by State
Government.

19. The Central Government shall ensure implementation of Timely and Effective Market Intervention Scheme by State Governments within two days of fall in market prices, in all perishable and other notified agricultural commodities, including potatoes, onions, tomatoes and plantation commodities and shall provide sufficient financial

outlays to ensure purchases at guaranteed remunerative minimum support price and instant payments to the farmers.

20. The Central Government shall—

- (a) put into place measures to prevent import of subsidized agricultural commodities from elsewhere, and by enhancing import duties and other measures; and
- (b) ensure that the landing price of agricultural commodities from other countries is at least equal to guaranteed remunerative minimum support price at any given point of time.

Measures to regulate imports of agricultural commodities.

21. The appropriate Government shall,—

- (a) implement schemes effectively to prevent farmers from selling agricultural commodities at low cost due to financial compulsion, including massive increase in access to storage facilities to enable all farmers to store their produce and sell at a time of remunerative prices;
- (b) provide negotiable warehouse receipts to enable the farmers to access finance of at least seventy-five *per cent.* of the value of the stored crop valued at guaranteed remunerative minimum support price or market value whichever is higher; and
- (c) make available adequate storage facilities and agro-processing facilities to traders especially for perishable products to guard against withdrawal of buyers from the market.

Measures to prevent distress sales.

22. (1) The appropriate Government shall constitute a Fund to make investments in organizing farmers into Farmers or Workers' producing Cooperative Societies, Farmer Producer Organisations with sufficient infrastructure and financial capital to run their market enterprises including processed, value-added produce, in a tax free atmosphere:

Investments on Farmer Producer Organisations.

Provided that additional incentives shall be provided to Women Farmers' Producer Organisation.

23. The appropriate Government shall take all necessary measures to reduce the cost of production by reducing the input costs through subsidies on inputs, like seed, fertilizer, pesticide, electricity, diesel and farm equipment by promoting low-cost sustainable methods of agriculture.

Measures to reduce and regulate input costs.

24. The appropriate Government shall designate and notify specific public authorities at all levels from the block level, who shall be responsible for monitoring the prices paid by traders, taking punitive action against those who contravenes the provision of this Act, opening procurement centres taking up market intervention and payment of compensation in time.

Designating and notifying the responsible public authorities.

25. The State Governments shall implement effective mechanism for identifying the actual cultivators including tenant farmers, sharecroppers, women farmers and adivasis, by registering and issuing them a means of identification, and ensuring that they get the benefit of guaranteed remunerative minimum support prices through procurement and market intervention and other mechanisms specified in this Act.

Identification and extension of benefits to actual cultivators.

CHAPTER VI

OFFENCES AND PENALTIES

26. (1) Any trader, including a person engaged in a contract farming arrangement, who contravenes the provision of section 17 shall be deemed to have committed a cognizable offence and shall be punished with,—

Offences and Penalties.

- (a) for first time offence, a penalty equal to twice the total deficit suffered by the farmers on account of the violation by the trader and imprisonment for a term of three months;

(b) for second time offence, a penalty equal to twice the total deficit suffered by farmers on account of the violation by the trader, and imprisonment for a term of six months; and

(c) for third time offence, a penalty equal to three times the total deficit suffered by the farmers on account of the violation by the trader and imprisonment for a term of one year as well as barring from any future trading for all non-Governmental traders.

(2) The public servants and authorities found guilty by the State Commission for not discharging their duties diligently or fail to promptly initiate action against traders purchasing below guaranteed remunerative minimum support price or effective market intervention or fail to provide compensation as specified under section 23 read with section 14 without reasonable cause or found to be willfully neglecting his duty, shall be liable to a penalty equal to one month's salary, to be deducted from his salary and punished with imprisonment for a term of six months.

CHAPTER VII

GRIEVANCE REDRESSAL AND COMPENSATION

Provision of compulsory payment of compensation for not obtaining guaranteed remunerative minimum support price.

27. (1) Any farmer who is not paid by the trader the guaranteed remunerative minimum support price for his sale of agricultural commodities shall be entitled to a compensation payable from the Fund equal to the difference between the guaranteed remunerative minimum support price and price obtained by the farmer.

(2) Any farmer who does not get instant and direct payment that fully covers the total value of the agricultural commodity sold at guaranteed remunerative minimum support price from any buyer including Government procurement agencies such farmer shall be entitled to get for compensation fixed at fifteen *per cent.* on the total payment due from the buyer for such delay every month.

Constitution of Taluka level Grievance redressal; Committee for payment of compensation to farmers.

28. (1) The State Commission shall constitute a three Member Grievance Redressal Committee at *Taluka* level to redress complaints from farmers under sub-sections (1) and (2) of section 27.

(2) The Grievance Redressal Committee shall consist of a Taluka level representative each from the Department of Agriculture and Marketing of the State Government concerned and a farmers' representative.

(3) The Grievance Redressal Committee shall follow a simple verification procedure as prescribed.

(4) The Grievance Redressal Committee shall resolve each complaint within one month from the date of receipt of the complaint.

(5) The Grievance Redressal Committee shall issue orders for payment of compensation to the farmers from the State Compensation Fund constituted under section 15.

CHAPTER VIII

OBLIGATIONS ON THE CENTRAL AND STATE GOVERNMENTS

Central Government to provide adequate funds.

29. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, reserve and spend adequate funds for a comprehensive assessment of costs for all commodities including by instituting systems for collection of data for such agricultural commodities for which such data systems do not exist at that point of time.

(2) The Central Government shall provide adequate financial outlays for the effective functioning of the Central Commission including primary research and other such work of the Commission, as well as for office, infrastructure and day to day functioning.

(3) The Central Government shall reserve adequate financial outlays to be transferred to designated procurement agencies in time for procurement and market intervention operations.

(4) The adequacy and utilization of financial outlays may be reviewed by the Central Commission on an annual basis, for lower or higher or similar outlays for the subsequent budget to be utilised for payment of compensation to farmers through the State Commissions and their State Compensation Fund.

30. The State Government shall reserve and provide adequate funds to the State Commission for its efficient functioning and to meet the obligations of fixing any State level guaranteed remunerative minimum support price over and above the Central Government's notification of guaranteed remunerative minimum support price.

State Government to provide adequate funds.

CHAPTER IX

MISCELLANEOUS

31. The provisions of this Act of any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law, or any instrument having effect by virtue of any law other than this Act.

Overriding effect of Act.

32. Every member of the Central and the State Commission and the member-Secretary and other staff appointed under section 12 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

Members and staff of Commissions deemed to be public servants.

45 of 1860.

33. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, as occasion requires, do anything not inconsistent with the provisions of this Act, which appears to them to be necessary for the purposes of removing the difficulty:

Power to remove difficulties.

(2) Every order made under this section shall be laid before each House of the Parliament.

34. (1) The appropriate Government may, by notification in the Gazette, make rules for the purpose of carrying in to effect the provisions of this Act.

Power to make rules.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this Act shall laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

More than fifty-five *per cent.* of India's population is principally dependent on agriculture for their livelihood. The past two decades, since 1995, have recorded more than 3,00,000 cases of suicides by farmers. Indian Government data shows 12,602 farmers killed themselves in 2015 alone, mostly owing to economic distress. Indebtedness was responsible for 38.7 *per cent.* of suicides, while crop failures or the inability to sell produce lead to another 19.5 *per cent.* of suicides. More than forty-three *per cent.* of farmers who killed themselves in 2015 had small holdings.

Data reveals that very often, even the cost of production is not recovered by farmers in realized prices, whereas the farm family has living expenses in addition to investments in farming. At present, the Commission on Agricultural Costs and Prices, for determining the Minimum Support Price (MSP), considers (1) Demand and supply; (2) Cost of Production; (3) Price trends in the market, both domestic and international; (4) Inter crop price parity; (5) Terms of trade between agriculture and non-agriculture; (6) Likely implication of MSP on consumers of that product. Using these various parameters, MSP is often fixed even below the cost of production, ignoring the right to life and livelihood of the producer.

Meanwhile, the food prices for consumers, especially those who are poor, have been secured at affordable rates through at least two legislations in the country—the Food Security Act, 2013 and the Essential Commodities Act, 1955. Therefore, there is every reason for price determination for farmers to take the sole mandate of securing adequate net returns to a farmer, over and above the comprehensive cost of production, rather than considering other parameters.

In view of the above, to uphold the right to life and livelihood of farmers, which are their fundamental rights, it is proposed to constitute National and State Farmers Agricultural Costs and Remunerative Price Guarantee Commissions which shall be autonomous body corporates, which should, once appointed, not to be under the control of the Central or the State Government and the determination of the comprehensive cost of production of the agriculture produce plus at least fifty *per cent.* profit margin as a guaranteed remunerative minimum support prices of each and every agricultural commodity by the Commission shall be final.

To confer such a right to guaranteed remunerative minimum support prices for sale of all agricultural Commodities of all farmers, it is expedient to regulate the prices offered by traders, and to lay down rules for public authorities for accountable functioning.

The Central Government takes decisions related to export and import of agricultural commodities keeping in view various factors. It is proposed that before taking such decisions, the Government should consult the Commission, and also take steps to ensure that the landing price of any imported commodity is not below the guaranteed remunerative minimum support prices fixed for that commodity within India at that point of time.

It is seen that to confer this legal right on all farmers to guaranteed remunerative minimum support prices, a redressal and compensation mechanism is necessary for farmers as well as traders.

It is felt that the right to guaranteed remunerative minimum support prices which includes at least fifty *per cent.* profit margin over the comprehensive cost of production will boost the morale of the farmer, who would be able to live comfortably, invest in his agricultural enterprise thereby potentially increasing productivity and production to ensure national food security be able to avoid falling into a debt trap.

Hence this Bill.

NEW DELHI;
April 6, 2018.

RAJU SHETTI

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for sufficient funds by the Central Government for robust, accurate systems for cost estimations to be instituted for all agricultural commodities on a timely basis. Clause 7 provides for constitution of the Central Farmers' Agricultural Costs and Remunerative Price Guarantee Commission. Clause 12 provides for constitution of the State Farmers' Agricultural Costs and Remunerative Price Guarantee Commission. Clause 15 provides for constitution and maintenance of a State Compensation Fund consists of allocations from the Central Government by the State Commission. Clause 18 provides that the Central Government shall provide for implementation of timely and effective Market Intervention Scheme by State Government within two days of fall in market prices, in all perishable and other notified agricultural commodities, including potatoes, onions, tomatoes and plantation commodities and shall provide sufficient financial outlays to ensure purchases at guaranteed remunerative minimum support price and instant payments to the farmers. Clause 21 provides that appropriate Government shall constitute a fund to make investments in organizing farmers into Farmers or Workers' Producing Cooperative, and other Farmer Producer Organisations, with sufficient infrastructure and financial capital to run their market enterprises. Clause 22 provides that appropriate Government shall take all necessary measures to reduce the cost of production by reducing the input costs through subsidies on inputs, like seed, fertilizer, pesticide, electricity, diesel and farm equipment by promoting low-cost sustainable methods of agriculture. Clause 27 provides for setting up of a three Member Grievance Redressal Committee at Taluka level to redress complaints from farmers. Clause 29 provides that the Central Government shall, after due appropriation made by Parliament by law in this behalf, reserve and spend adequate funds for a comprehensive assessment of costs for all commodities including by instituting systems for collection of data for such agricultural commodities. Clause 30 provides that the State Governments shall reserve and provide adequate outlays for the State Commission to function effectively and to meet the obligations of fixing any State level guaranteed remunerative minimum support price over and above the Central Government's notification of guaranteed remunerative minimum support price. The Bill, therefore if enacted, will involve expenditure from the Consolidated Fund of India. However at this stage it is not possible to estimate the exact amount which is likely to be incurred towards recurring and non-recurring expenditure for the purpose.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 34 of the Bill empowers the appropriate Government to make rules for carrying out the purpose of this Act. As the rules will relate to matters of detail only, the delegation of legislative power is, therefore, of a normal character.

BILL NO. 128 OF 2018

A Bill to provide for the stabilization of population in the country through setting up of a National Population Planning Authority at the national level and a District Population Planning Committee in each district to encourage and promote family planning in order to ensure a population which is in tandem and commensurate with the resources and development of our nation, to improve health of the women and empower them, recognizing both men and women as an important stakeholder in the family planning process, to improve standard of living of the citizens and for the matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Population (Stabilization & Planning) Act, 2018.

(2) It extends to the whole of India, except the State of Jammu & Kashmir.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) “annual report” means the report prepared by the National Population Planning Authority;

(c) “Authority” means the National Population Planning Authority constituted under section 4;

(d) “Committee” means the District Population Planning Committee constituted under section 11;

(e) “medicine” means medicine prescribed by a certified medical practitioner for sterilization and matters connected therewith and incidental thereto;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “public servant” shall have the same meaning as assigned to it under section 21 of the Indian Penal Code, 1860; and

(h) “small family” means a family having two children or less.

3. For the purpose of this Act, every healthcare professional shall be deemed to be a “public servant”.

Healthcare professionals to be deemed public servant.

4. (1) The Government shall, within one year of the coming in force of this Act, establish a National Population Planning Authority for carrying out the purpose of this Act.

Constitution of National Population Planning Authority.

(2) The Authority which shall consist of:—

(a) Secretary, Ministry of Health and Family Welfare — *ex-officio* Chairperson;

(b) Chairperson, National Commission for Women — *ex-officio* Member;

(c) Secretary, Ministry of Women and Child Development — *ex-officio* Member;

(d) Secretary, Ministry of Social Justice and Empowerment — *ex-officio* Member;

(e) Secretary, Ministry of Human Resource Development — Member; and

(f) two persons, with experience of at least fifteen years in the social sector, one of whom shall be a woman.

(3) The Central Government shall appoint such number of officers and staff as it considers necessary for the functioning of the Authority;

(4) The salary and allowances payable to, and terms and conditions of services of the members, officers and staff of the Authority shall be such as may be prescribed.

5. (1) The Authority shall meet at such times and places as appointed by the Chairperson and shall abide by such rules of procedure in regard to transaction of business at its meetings, as may be prescribed;

Meetings of the Authority.

(2) The expenditure incurred for the meetings shall be borne out of the funds provided to it by the Central Government.

6. (1) The Authority shall,—

Functions of the National Population Planning Authority.

(a) prepare a plan for family planning in the country, which shall include;

(i) conducting surveys across the country;

(ii) formulating a strategy to specifically target the regions with high maternal and infant mortality rate;

(iii) specific identification of the high density and high Total Fertility Rate (TFR) areas and formulate plans for such regions accordingly;

(iv) creating a mechanism for ensuring quality medicine procurement;

(v) preparing a strategy for ensuring equal participation of both male and female in the sterilization process;

(vi) evolving schemes for encouraging participation of both the male and the female in the family planning process;

(vii) preparing a plan for the counselling of the male and the female, to be implemented by the District Population Planning Committee;

(viii) preparing a strategy to popularize and promote spacing of at least two years between two children;

(ix) framing school curriculum on the population stabilization and provide for a mechanism of inclusion of the same;

(b) create awareness on the benefits of a small family through various programs;

(c) provide for a framework for the training of the healthcare professionals;

(d) examine, recommend and formulate a strategy for integration and convergence of the existing schemes; and

(e) perform any other function, which the Central Government may prescribe from time to time.

(2) The Authority shall strive to promote the small family norm and suggest measures to discourage violation of the small family norm.

Incentives for adhering to small family norm.

7. (1) Notwithstanding anything contained in any law for the time being in force, every person, who adopts the small family norm, shall be entitled to—

(a) one additional increment as incentive if the person is employed with the Central or the State Government;

(b) free healthcare at all the public healthcare institutions for the entire family; and

(c) receive such other benefits as may be prescribed by the Central Government from time to time.

(2) If either or both the children are female, the female child or children, as the case may be, shall be entitled to free education till the graduation level, the assistance for which shall be provided by the appropriate Government.

Promote spacing in child births.

8. The Government shall strive to promote a spacing of at least two years between from the date of delivery of the first child and the onset of second pregnancy.

Appropriate Government to ensure access to quality and affordable medicines, healthcare.

9. The appropriate Government shall ensure that people have access to quality and affordable contraceptive medicines and healthcare pertaining to family planning and matters incidental and consequential thereto.

Designating women as head of the household in welfare programmes.

10. (1) The appropriate Government shall, as far as possible, designate the eldest married woman in the household as the head of the household under various welfare programmes.

11. (1) The appropriate Government shall constitute a District Population Planning Committee in every district for purposes of this Act.

Constitution of District Population Planning Committee.

(2) The Committee shall consist of—

(a) the District Collector — *ex-officio* Chairman;

(b) the Chief Medical Officer of the district — *ex-officio* Member;

(c) One representative of the Municipal Council — *ex-officio* Member;

(d) two persons with an experience of at least ten years in social sector, at least one of whom shall be a woman.

(3) For the purpose of appointments of persons under clause (d) the appropriate Government shall consult public representatives of the concerned district.

12. (1) The Committee shall,—

Functions of the District Committee.

(a) implement the policies and plans formulated by the National Population Planning Authority;

(b) coordinate and consult with the village Panchayat for formulation and implementation of the plan at the village level;

(c) provide counselling facilities to male and female pertaining to family planning and matters incidental and consequential thereto through healthcare professionals;

(d) to carry out an annual survey to collect data on small families in the district;

(e) distribute contraceptives through health-care centres and Non-Governmental Organizations;

(f) organize sterilization camps;

(g) publicize benefits of having a small family;

(h) engage with Non-Governmental Organizations and other social groups for promoting the small family norm;

(i) recommend to the appropriate Government from time to time regarding measures to be taken to encourage family planning measures and improve the standard of living; and

(j) perform any other function, which the appropriate Government may prescribe, from time to time.

(2) The Committee shall take into account the representation made before it by the village Panchayat representatives, to be nominated by the village Panchayat, at least one of whom shall be a woman.

13. The Central Government shall, after due consultation with the concerned State Governments, and after due appropriation made by the Parliament in this behalf, provide requisite funds for carrying out the purposes of this Act.

Central Government to provide funds.

14. (1) The Authority shall publish once every year, a report in such form and manner as may be prescribed.

Publication of Annual Report.

(2) The Central Government shall cause such report to be laid before each House of Parliament as soon as it is received.

15. The provisions of this Act shall not be in derogation of any other law for the time being in force.

Act not in derogation of other law.

16. If any difficulty arises in giving effect to the provisions of this Act, the Central Government, in consultation with the State Governments, may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it be necessary or expedient for removing any difficulty:

Power to remove difficulty.

Provided that no such other shall be made under this section after the expiry of three years from the date of commencement of this Act.

Power to
make rules.

17. (1) The Central Government may, by notification, in the Official Gazette, make rules for carrying out purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The census of 2011 estimated India's population to be around one hundred and twenty one crores, which, by 2017 is estimated to come closer to one hundred and thirty crores. As per Registrar General of India, by 2026, India's population will be 139.9 crore. India, at present, is world's second most populated country and is set to overtake China by 2030. India accounts for only 2.4 per cent. of the total area of the world, while accounting for 16.9 per cent. of its total population, which represents the huge stress that is being created on the resources of the nation. Such high level of population has further caused and continues to cause high levels of inequality, poverty, hunger and deterioration in standard of living, which is evident from India's miserable performance on the indicators of Human Development Index (HDI) and others.

Article 38 of the Indian Constitution puts the onus on the State to secure a social order for the promotion of welfare of the people which includes reduction of inequalities in income, status, facilities and opportunities. However, the existing levels of population make it difficult to achieve the goals stated under the Directive Principles of the State Policy, whereby State is overburdened with the responsibility of creating enormous infrastructure to sustain such high population, besides other stresses such as ensuring healthcare, reducing poverty and improving quality of life, while the resources to provide such facilities remain limited and continue to deplete with the rising level of population.

In the light of the given situation, it is imperative that appropriate steps be taken to stabilize and control the tremendous growth of population so as to distribute the resources more equally and equitably and to improve the standard of living of the people of India. Such a policy is a requirement of the time so that the Directive principles of State Policy could be put in the policy framework in their spirit. There is also a need to recognize the equal participation of both male and female in the family planning process and need for empowering women in the decision making process. Emphasis has also to be laid on the educational levels across the country, especially in the regions of high Total Fertility Rate (TFR). Moreover, it is also imperative to ensure that the related medicines are available at affordable rates and that responsibilities are established in the cases of violation of norms by the healthcare professionals.

The Bill effectively provides for the setting up of a National Population Planning Authority and a Committee at the district level, measures which shall be initiated to stabilize and do planning for the population in the country through measures such as spreading education, awareness, empowerment of women and recognition of both male and the female as equal partners in the family planning process. The Bill is a significant step towards the overall development of the nation and ensuring economic as well as social equality.

Hence this Bill.

NEW DELHI ;
April 06, 2018

SUSHIL KUMAR SINGH

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of a National Population Planning Authority and appointment of such officers and staffs for its functioning. Clause 5(2) provides for the Central Government to bear the expenditure incurred for the meetings of the authority. Clause 7 provides for incentives for small family norm. Clause 9 provides for the appropriate Government to ensure access to quality and affordable medicines, healthcare. Clause 11 provides for the constitution of a District Population Planning Committee. Clause 13 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill, therefore, if enacted, will involve an expenditure of rupees five thousand crore per annum from the Consolidated Fund of India.

A non-recurring expenditure to the tune of ₹ three hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will related to matters of details only, the delegation of legislative power is of a normal character.

BILL NO. 132 OF 2018

A Bill further to amend the constitution of India.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2018.

Short title.

2. In the Seventh Schedule to the Constitution,—

Amendment
of the Seventh
Schedule.

(i) in List II-State List, entry 12 shall be omitted;

(ii) in List III-Concurrent List, after entry 25, the following entry shall be inserted,
namely:—

“25A. Libraries, museums and other similar institutions controlled or financed by the State; ancient and historical monuments and records other than those declared by or under law made by Parliament to be of national importance.”.

STATEMENT OF OBJECTS AND REASONS

As per the Constitution, the subject “libraries” forms the part of the State List. If the Union Government wants to have a library legislation at national level, it has to amend the Constitution by shifting the item of libraries from State List to the Concurrent List.

The Government of India appointed a Committee in the year 1948 to suggest the possibilities of establishing a National Central Library at New Delhi. Dr. S.R. Ranganathan as a member of the Committee prepared “Draft Library Bills for Union and Constituent States”. Later, the Central Government did not take decision to pass a Union Library Bill.

Since independence, only nineteen out of twenty-nine States have passed the library legislation through Public Library Acts in their respective States. Due to lack of funds, resources and trained manpower, majority of public libraries in the country are in pathetic condition.

The Working Group of Libraries under National Knowledge Commission in its 2006 Report entitled “Libraries: Gateways to Knowledge — A roadmap for revitalisation” recommended that “In order to facilitate the coordinated development of libraries across different sectors and to provide the legislative framework, required legal support and financial backing to the Library Sector, the Government could, in course of time, consider including libraries in the Concurrent List of the Constitution of India. This should be done without in any way abrogating the existing responsibilities of the States towards libraries”.

Due to partial and ineffective implementation of State legislation, a National Library Legislation is needed to bring in a robust legislative framework to make India a knowledge society.

The Bill, therefore, seeks to amend the Seventh Schedule to the Constitution with a view to transfer entry 12 of List-II, State List pertaining to ‘Libraries’, to List-III, Concurrent List so that the Parliament and the Central Government can also play vital role in the overall development of a National Library Policy, systems and services in the country.

The Bill seeks to achieve the above objective.

NEW DELHI;
June 29, 2018.

TEJ PRATAP SINGH YADAV

BILL NO. 129 OF 2018

A Bill to amend the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Maintenance and Welfare of Parents and Senior Citizens (Amendment) Act, 2018. Short title, and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. After Chapter V of the Maintenance and Welfare of Senior Citizens Act, 2007, the following Chapter and sections there under shall be inserted, namely:— Insertion of new Chapter VA.

"CHAPTER VA

PROTECTION OF SENIOR CITIZENS FROM LONELINESS

Database of senior citizens living alone.

23A. (1) Every State Government shall prepare and maintain a confidential district-wise digital database of senior citizens living alone.

(2) Any unauthorised access to the database of senior citizens living alone or attempt thereof shall be an offence punishable with a fine which may extend upto one lakh rupees or with simple imprisonment for a term which may extend upto six months or both.

Interactional and recreational facilities for senior citizen living alone.

23B. (1) The State Government shall establish sufficient number of senior citizen centers in each district.

(2) The senior citizen centers established under sub-section (1) shall provide interactional, recreational and such other facilities to senior citizens as may be prescribed.

(3) Where oldage homes have been established under section 19 of this Act, the facilities under sub-section (2) may be provided at such oldage homes.

Regular visits to senior citizens living alone.

23C. The State Government shall depute officials or volunteers who shall regularly visit senior citizens living alone and perform the following functions, namely:—

(a) organising social interaction activities for such senior citizens;

(b) updating the database of senior citizens living alone;

(c) aiding the local police administration in providing adequate security to such senior citizens.

Counseling of retiring individuals and individuals approaching sixty years of age.

23D. (1) All establishments shall provide counselling to their retiring employees regarding post-retirement life and the need for social interaction.

(2) The appropriate Government shall provide counseling regarding elderly life and need for social interaction to all individuals, except those covered under sub-section (1), approaching the age of sixty years.”.

STATEMENT OF OBJECTS AND REASONS

India has a sizeable population of senior citizens. Therefore, the legislative bodies have been mindful of the needs of senior citizens. The Parliament enacted the Maintenance and Welfare of Parents and Senior Citizens Act in the year 2007 which has proved to be a landmark enactment to serve the interests of senior citizens. While the need to meet physical requirements of senior citizens is addressed, a major problem that afflicts them and often goes unattended is loneliness in their lives.

With the advent of globalisation, the joint family system is on the decline. Children often have to leave their parents behind in pursuit of employment. As a result, senior citizens are forced to live a life of solitude. Modern social life offers little opportunities of social interaction to people at the dusk of their lives. Loneliness in life is not just a problem in itself, it brings with it a host of psychological and health issues. People living alone are more vulnerable to depression. There is ample evidence to prove that such persons sooner or later develop life-style diseases. A study has found that the risk of Alzheimer's dementia was more than double in lonely elderly individuals compared to those who were not lonely.

In order to protect senior citizens from loneliness and its harmful effects, the Bill therefore, seeks to amend the parent Act with a view to:—

(i) provide that the State Government shall provide interactional and recreational facilities to senior citizens where they can interact with other people;

(ii) make arrangement of regular visits to senior citizens living alone by officials or volunteers appointed by the State Government in order to address their needs for social interaction and security;

(iii) provide for counselling regarding elderly life and the need for social interaction to retiring employees and individuals approaching sixty years of age; and

(iv) provide for creation of a database of senior citizens living alone and to provide for its confidentiality so as to prevent misuse of such database.

The Bill seeks to achieve the above objects.

NEW DELHI;
July 2, 2018.

BHARTRUHARI MAHTAB

FINANCIAL MEMORANDUM

Clause 2 of the Bill *vide* proposed section 23A provides for creation of a digital database of senior citizens living alone; it also *vide* proposed section 23B provides for interactional and recreational facilities for senior citizens living alone; and *vide* proposed section 23D, it also seeks to provide for counselling facilities to retiring individuals and individuals approaching the age of sixty years.

The Bill, therefore, if enacted, will involve expenditure out of the Consolidated Fund of India. A recurring expenditure of rupees five crore is likely to be involved from the Consolidated fund of India. A non-recurring expenditure of about rupees two crore is also likely to be involved.

BILL NO. 130 OF 2018

A Bill to provide for the constitution of a National Council of Professional Social Work Practitioners for the coordination, development and regulation of professional social work practice in India and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the National Council of Professional Social Work Practitioners Act, 2018.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act unless the context otherwise requires,—

(a) "Chairperson" means the Chairperson of the National Council or the State Council, as the case may be;

(b) "*ex-officio Member*" means the seven members nominated by the Central Government under section 3;

(c) "National Council" means the National Council of Professional Social Work Practitioners constituted under section 3;

(d) "post graduate social work teacher" means a qualified professional social work teacher teaching at post graduate level;

(e) "prescribed" means prescribed by regulations made under this Act;

(f) "professional social work practitioner" means a person who is a social work degree holder and whose name has been entered in the Register maintained under section 6;

(g) "member" means a member appointed under this Act;

(h) "member-Secretary" means member secretary of the National Council or the State Council, as the case may be;

(i) "recognized institution" means an institution recognized by the National Council under this Act;

(j) "Register" means register of professional social work practitioners maintained by each State Council under section 6;

(k) "regulation" means regulation made under this Act;

(l) "social work degree holder" means a person who has obtained a prescribed degree in Social Work from any of the recognized University or institution in India or abroad;

(m) "State Council" means State Council of Professional Social Work Practitioners constituted under section 5; and

(n) "Vice-Chairperson" means the Vice-Chairperson of the National Council or the State Council, as the case may be.

Constitution
of National
Council for
Professional
Social Work
Practitioners.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a National Council to be known as the National Council for Professional Social Work Practitioners for carrying out the purposes of this Act.

(2) The National Council shall consist of—

(a) a Chairperson;

(b) a Vice-Chairperson;

(c) a member-Secretary; and

(d) seven persons as *ex-officio Members*'

to be appointed by the Central Government in such manner as may be prescribed:

Provided that the Chairperson, Vice-Chairperson and member-Secretary except the *ex-officio* members shall be a professional social work practitioner registered under section 6:

Provided further that twenty per cent. of the members of the National Council shall be post graduate social work teachers with not less than ten years of teaching experience.

(3) The National Council shall have its headquarters at such place as may be notified by the Central Government in such manner as may be prescribed.

(4) The term of office of the Chairperson, Vice-Chairperson, member-Secretary and ex-officio members shall be for five years and they shall also be eligible for reappointment:

Provided that no person shall be elected for more than two consecutive terms.

(5) The Central Government shall appoint such number of officers and staff to the National Council as it deem necessary for carrying out functions assigned to it under this Act.

(6) The Salary and allowances payable to and other terms and conditions of service of Chairperson, Vice-Chairperson, member-Secretary, ex-officio members and officers and staff of the National Council shall be such as may be prescribed.

(7) Any casual vacancy in the National Council shall be filled in accordance with the provisions of this Act and the person so appointed shall hold office only for the remaining term for which the member in whose place he has been appointed may have held office.

4. The National Council shall be a body corporate by the name of National Council for Professional Social Work having perpetual succession and common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract, and shall by the said name sue and be sued.

Incorporation
of National
Council.

5. (1) The State Government shall, by notification in the Official Gazette, constitute a State Council each to be known as the State Council for Professional Social Work Practitioners for carrying out the purposes of this Act.

Constitution
of State
Councils for
Professional
Social Work
Practitioners.

(2) The State Council shall consist of—

- (a) a Chairperson;
- (b) a Vice-Chairperson;
- (c) a member-Secretary; and
- (d) four persons as ex-officio-members,

to be appointed by the State Government concerned in such manner as may be prescribed:

Provided that the Chairperson, Vice-Chairperson and member-Secretary except the ex-officio members shall be a professional social work practitioner registered under section 6.

(3) The State Council shall have its headquarters at such place as may be notified by the State Governments concerned in such manner as may be prescribed.

(4) The term of office of the Chairperson, Vice-Chairperson, Member-Secretary and ex-officio Members shall be for five years and they shall also be eligible for reappointment:

Provided that no person shall be elected for more than two consecutive terms.

(5) The State Government concerned shall appoint such number of officers and staff to the State Council as it deem necessary for carrying out functions assigned to it under this Act.

(6) The Salary and allowances payable to and other terms and conditions of service of Chairperson, Vice-Chairperson, Member-Secretary, ex-officio Members and officers and staff of the State Council shall be such as may be prescribed.

6. (1) The State Government shall cause to be maintained a Register to be known as the Register of Professional Social Work Practitioners practicing social work within their jurisdiction in such form and manner as may be prescribed.

Register of
Professional
Social Work
Practitioners.

(2) Every professional social work practitioner shall register himself in the Register maintained under sub-section (1) in such manner as may be prescribed.

(3) The Register maintained under sub-section (1) shall contain such details of the professional social work practitioners as may be prescribed.

(4) The State Governments shall forward a copy every year of the Register maintained under sub-section (1) to the Central Government for record.

Incorporation
of State
Councils.

7. The State Social Work Council shall be a body corporate by the name of State Social Work Council having perpetual succession and common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract, and shall by the said name sue and be sued.

Disqualification.

8. No person shall be registered as member of a National Council or a State Council if he—

(a) does not possess the prescribed degree in social work;

(b) is, or becomes person of unsound mind;

(c) is or has been convicted for any offence by the court of law involving moral turpitude;

(d) is or at any time has been adjudicated as insolvent;

(e) is declared by court of law to be otherwise incompetent;

(f) is proved to have violated the code of ethics, rules, regulations and guidelines of the National Council.

Meetings of
the National
Council and
the State
Council.

9. (1) The National Council or the State Council, as the case may be, shall meet at such time and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum) as may be prescribed:

Provided that the Council (National or State) shall meet at least twice every year.

(2) The Chairperson, and in the absence of the Chairperson, the Vice-Chairperson, and in the absence of both Member-Secretary shall preside over the meeting of the Council (National or State):

Provided that in absence of the Chairperson, Vice-Chairperson and Member-Secretary, any member agreed to by the members of the Council shall preside over the meeting.

(3) Every decision of the Council (National or State) shall be taken by a majority of votes of the members present and voting and in the event of any equality of votes, the person presiding the meeting shall have a second and casting vote.

Constitution
of Executive,
Disciplinary
and other
Committees.

10. (1) The National Council and the State Council shall constitute an Executive Committee, a Disciplinary Committee and such other Committees as that Council deems necessary to carry out the purposes of this Act.

(2) The Constitution, function, powers and terms and conditions of the Committees and its members shall be such as may be prescribed.

Functions of
the National
Council.

11. The National Council shall—

(a) safeguard the rights, privileges and interest of professional social workers registered with the Council;

(b) draw up a code of ethics and code of conduct for social work professional and mechanism for their enforcement;

(c) prepare, maintain and implement professional standards for social work practices in India;

(d) establish and lay down the procedure to be followed by disciplinary committee constituted under section 9;

(e) exercise general supervision and control over State Councils;

(f) act as a nodal agency for social work in India;

(g) facilitate networking among social work professionals at the micro and macro levels to work towards development of both at individual level and at the community level;

(h) assess the professional social work human power needs in the country including identification of positions to be filled by social work professionals only;

(i) promote social work education and practice and lay standards of such education and practice in consultation with the Universities in India and State Boards of Education imparting such education and State Councils;

(j) recognize Universities and institutions whose course shall be qualification for registering as a professional social work practitioner and for that purpose to visit and inspect Universities and institutions;

(k) coordinate and interact with International Social Work Bodies, Universities, United Nations Agencies and other Developmental Agencies in the area of Social Work and related areas;

(l) recognize basic foreign qualifications in social work obtained outside India for the purpose of admission as a professional social worker;

(m) undertake scientific studies, researches, consultation, workshops, publications relating to various fields of social work education, training and practice and disseminate results thereof;

(n) promote interact between professional social work and allied disciplines or professions in the area of teaching, training, workshops, research, extension, publication, dissemination of knowledge, skills and practice;

(o) manage the funds of the Council;

(p) provide for election of its members; and

(q) perform all other functions conferred on it for improving and promoting social work practice by or under this Act.

12. The State Council shall,—

Functions of
the State
Council.

(a) function as the State unit of the National Council;

(b) register persons as social workers on its register and issue registration certificate thereto;

(c) maintain a Register of professional social work practitioners as mentioned under section 6;

(d) constitute disciplinary committees;

(e) entertain and determine cases of misconduct against professional social workers;

(f) safeguard the rights, privileges and interests of professional social workers registered with it;

(g) manage and invest funds of Council; and

(h) perform all other functions conferred on it by or under this Act.

13. Subject to the conditions and restrictions prescribed under this Act every person whose name is for the time being registered on the Register of any State Council shall be entitled according to his qualifications to practice social work in any part of India and recover in due course in respect of such practice any expenses, charges to which he is entitled to.

Right to
Practice.

Right of persons registered as Professional Social Worker.

14. No person other than persons registered as professional social work practitioner shall:

- (a) practice professional social work in India;
- (b) hold office which has been identified for professional social workers as it involves discharging social work;
- (c) be entitled to give evidence at any court of law, tribunal or authority empowered to take evidence on oath as an expert under section 45 of the Indian Evidence Act, 1872 on any matter related to social work;
- (d) be entitled to sign or authenticate certificates required by law to be signed or authenticated by a duly qualified social worker.

1 of 1872.

Disciplinary Committees.

15. (1) The State disciplinary Committee constituted under section 10 shall, either *suo-moto* or on receipt of a complaint, hear the cases of misconduct of professional social work practitioners registered with that State Council.

(2) The State Disciplinary Committee shall suggest appropriate action including the action for removing the name of person from the Register.

(3) Any person aggrieved by the decision of the State Disciplinary Committee may appeal to the National Disciplinary Committee constituted under section 10.

(4) The State Disciplinary Committee or the National Disciplinary Committee, as the case may be, shall follow the principle of natural justice while hearing cases or appeals in cases of misconduct.

Funds of the National and State Council.

16. (1) The National or State Council shall, as the case may be, by notification in the Official Gazette, constitute a Fund to which shall be credited any grants, donations, gifts, or benefactions from Government, public undertakings, national and international bodies or agencies, corporations, universities, boards, trusts, societies, companies and banking institutions.

(2) All receipts of the Council (National or State) shall be credited to the Fund and all payments by the Councils shall be made therefrom.

(3) All funds shall be received only through Bank Accounts opened in nationalized banks.

Fee for registration recognition of institutions.

17. Every professional social work practitioner for his registration in the Register and institutions for its recognition under this Act shall be charged an appropriate fee as may be prescribed.

Accounts and Audits.

18. (1) The Council (National or State) shall prepare, in such form and in such time each year as may be prescribed, a budget in respect of the financial year ensuing showing the estimated receipts and expenditure.

(2) Every Council (National or State) shall cause to be maintained such books of accounts and other books in such form and in such manner as may be prescribed.

(3) The accounts of Council (National or State) shall be audited by auditors duly qualified to act as auditors of companies under the Companies Act, 2013, at such times and in such manner as may be prescribed.

18 of 2013.

Annual Report.

19. The Council (National or State) shall prepare and submit an Annual Report, in such form in such manner and at such time as may be prescribed, giving a true and full account of its activities during the previous year to the Central Government or the State Government, as the case may be, who shall cause the Report to be laid before both the Houses of Parliament or State legislature, as the case may be.

Protection of action taken in good faith.

20. No suit, prosecution or other legal proceeding shall lie against the Chairperson, Vice-Chairperson, Member-Secretary and *ex-officio Members* of the Councils (National or State) or members of committees constituted by the Councils under section 10 or officer of the Council for anything done in good faith or intention under this Act.

21. (1) The National Council may, with the previous sanction of the Central Government, make regulations generally for carrying out the purposes of this Act.

Power to
make
regulation.

(2) In particular without prejudice to the generality of this power, such regulations may provide for all or any of the following matter namely:—

(a) the manner of appointment of the Chairperson, Member-Secretary and other members of the Council;

(b) the powers and duties of Chairperson, Vice-Chairperson, Member-Secretary and other members of the Council;

(c) the terms and conditions of office of Chairperson, Vice-Chairperson, Member-Secretary and other members of the Council;

(d) the constitution of Committees of the Council;

(e) the staff requirements of the Councils and the terms and conditions of service of such staff;

(f) the management of funds and property of the State Social Work Councils and maintenance of audit and of its accounts;

(g) the form of annual reports;

(h) the procedure of elections;

(i) the manner, quorum and the procedure of meetings of the councils;

(j) the appointment of *ex-officio* Members; and

(k) such other matter as it deem necessary for carrying out the purposes of this Act.

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

STATEMENT OF OBJECTS AND REASONS

Social work education was started in India in the year 1936 at the Tata Institute of Social Sciences, Mumbai. Within the eighty or so years it has spread over to hundreds of colleges all over the India. Lakhs of social work professionals are practicing as counselors, medical social workers, psychiatric social workers, programme officers, project coordinators, researches, social work teachers and so on in various fields. It is a profession providing individual care and services to the people that demands the principle of confidentiality, individualization, acceptance and nonjudgemental attitude. It can be ensured only through a professional code of ethics, which can be realized by a National Professional Social Work Council. In India, so far no legislation has been enacted in this regard. Social Work being a professional service invariably demands Union legislation at the earliest.

A legislation to ensure the rights of the stakeholders, protecting the evidence based practice as well as the rights, accountability and responsibilities of the service providers and service users as well are the need of the hour.

Developed nations like the USA, Canada, UK and Australia have their professional Council constituted to regulate the practice of professional social work in their respective field.

The Bill, therefore, with a view to regulate, coordinate and develop professional social work practice in the country provides for—

- (a) constitution of a National Professional Social Work Practitioner Council and State Professional Social Work Practitioner Councils;
- (b) formulation of a code of ethics for the practice of professional social work in India;
- (c) registration of professional social work practitioner;
- (d) regulation of professional social work education and institutions offering courses in professional social work;
- (e) licensing and regulation of the institutions practicing professional social work; and
- (f) conferring certain rights on professional social work practitioners.

Hence this Bill.

NEW DELHI;
July 3, 2018.

RICHARD HAY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of the National Professional Social Work Practitioner Council. It also provides for appointment of Chairperson, Vice-Chairperson, Member-Secretary and *ex-officio* Members to the Council. Clause 5 provides for constitution of the State Professional Social Work Practitioner Council. Clause 6 provides for maintenance of a Register of professional social work Practitioners. Clause 10 provides for constitution of Executive Committee and Disciplinary Committees by the National Council and the State Council. Clause 16 provides for the constitution of Fund by the National Council and the State Council. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees thirty crores would involve as a recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees twenty crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the National council to make regulations for carrying out the purposes of the Bill. As the regulations will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 82 OF 2018

A Bill to provide for regulation of fee in private schools with a view to make education accessible to all and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

Short
title, extent
and
commencement.

1. (1) This Act may be called the Private Schools (Regulation of Fee) Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “academic year” means the year specified by the appropriate Government or, as the case may be, any Board or Council to which respective school is affiliated;

(b) “aided school” means a school receiving any kind of recurring grant or assistance in monetary or non-monetary form, from the appropriate Government or the concerned authority for defraying its expenditure;

(c) “appropriate Government” means, in the case of a State, the Government of that State and in all other cases, the Central Government;

(d) “child” means a child who has not completed the age of fourteen years;

(e) “fee” means the amount fixed as fee including tuition fee, library fee, gymkhana fee, examination fee, development fee or amount payable for any curricular or co-curricular activities, laboratory fee, information brochure fee and any other amount collected from the students, by whatsoever name called, and accepted in whichever manner, that is made payable to a private school;

(f) “management” means the managing committee or the governing body, by whatever name called, of the private school to which the affairs of such schools are entrusted and where such affairs are entrusted to any person, by whatever name or designation called;

(g) “National Authority” means the National Authority for the Regulation of Fee in Private Schools constituted under section 4;

(h) “parent” means biological or adoptive mother or father of a child;

(i) “pre-primary school” means a nursery, junior kindergarten, senior kindergarten level or any school imparting education for children between the age of three to six years, by whatever name called and of any medium attached in the prescribed manner to the school, but does not include a creche;

(j) “prescribed” means prescribed by rules made under this Act;

(k) “private school” means an unaided school, whether recognized or not, which is not run by the appropriate Government, or its local authority or any other authority designated or sponsored by appropriate Government and includes a pre-primary, primary, middle, higher secondary and senior secondary school and also other institutions which impart education or training below the degree level but does not include an institute which imparts technical education;

(l) “profiteering” means any amount accepted in cash or kind, directly or indirectly which is in excess of the fee approved as per the provisions of this Act;

(m) “regulations” means the regulations framed by the Authority;

(n) “school” means a pre-primary school, primary school, school imparting elementary education, secondary school, higher secondary school or junior college recognized by the Government and managed by any management and affiliated to any Indian or foreign board, whether aided, partially aided or un-aided;

(o) “stake-holders” means the management, the students studying in the respective institution and their parents; and

(p) “State Authority” means the State Authority for Regulation of Fee in Private Schools constituted under section 6.

3. Notwithstanding anything contained in any other law for the time being in, no private school shall charge any additional fee in any form for admission in such school.

Prohibition on charging additional fee.

Constitution of the National Authority for Regulation of Fee in Private Schools.

4. (1) The Central Government shall, by notification in the Official Gazette, constitute a National Authority to be known as the National Authority for Regulation of Fee in Private Schools for carrying out the purposes of this Act.

(2) The National Authority shall consist of—

(a) a Chairperson and six other members having atleast twenty-five years of experience in the field of school education, public affairs or administration of educational matters;

(b) following *ex-officio* Members—

(i) the Chairperson, Central Board of Secondary Education (CBSE);

(ii) the Commissioner, Kendriya Vidyalaya Sangathan (KVS);

(iii) the Director, National Council of Educational Research & Training (NCERT);

(iv) the Chairperson, National Council for Teacher Education (NCTE);

(v) the Chairperson, National Institute of Open Schooling (NIOS);

(vi) the Commissioner, Navodaya Vidyalaya Samiti (NVS);

(vii) the Chairperson, National Bal Bhavan; and

(c) an eminent economist and a statistician.

to be appointed by the Central Government in such manner as may be prescribed.

(3) The term of office of the members of the National Authority shall be five years and they shall not be eligible for re-appointment.

(4) The salary and allowances payable to and other terms and conditions of service of Chairperson, other members, eminent economist and statistician shall be such as may be prescribed.

Functions of the National Authority.

5. The National authority shall,—

(a) prescribe the fee to be charged by a private school;

(b) define the principle of 'reasonable surplus' and 'non-profiteering' on the basis of cost-fee analysis by private schools; and

(c) undertake such other function as may be assigned to it by the Central Government, from time to time.

Constitution of the State Authority for Regulation of Fee in Private Schools.

6. (1) Every State Government shall, within three months from the date of coming into force of this Act and in consultation with the respective State School Education Boards, by notification in the Official Gazette, constitute a State Authority to be known as the State Authority for Regulation of Fee in Private Schools.

(2) The State Authority shall consist of such number of members representing the State School Education Boards, teachers, parents and students to be appointed by the State Government concerned in such manner as may be prescribed.

Functions of the State Authority.

7. The State Authority shall,—

(a) ensure that the fee structure submitted by the private schools within the State conforms to the principles of 'reasonable surplus' and 'non-profiteering' defined by the National Authority under section 5; and

(b) undertake such other function as may be assigned to it by the State Government, from time to time.

8. The Central Government shall, on the recommendations of the National Authority, determine the maximum amount of fee that can be charged by a private school.

Central Government to prescribe the maximum amount of fee.

9. Every private school shall, subject to the maximum amount of fee determined by the National Authority under section, formulate its fee structure in consonance with the principles of 'reasonable surplus' and 'non-profiteering' as defined by the National Authority under section 5.

Private School to formulate the fee structure.

10. Any private school, which demands or accepts any fee or donation, in any manner whatsoever, in violation of the provisions of section 9 shall, without prejudice to proceedings for prosecution under the provisions of this Act or any other law for the time being in force, be subject to following penalties:—

Penalty.

(i) the recognition of such private school shall be withdrawn; and

(ii) such private school shall be liable to a penalty which may extend upon twenty lakh rupees:

Provided that a school shall be given reasonable opportunity of being heard before any decision on its derecognition is taken.

11. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds to the State Governments for carrying out the purposes of this Act.

Central Government to provide funds.

12. Notwithstanding anything contained in this Act, the provisions of this Act, shall apply to minority institutions only if the management of such institutions convey to the appropriate Government their willingness for regulation of fee in such institutions.

Application of Act on minority educational institutions in certain situation.

13. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Overriding effect of the Act.

14. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Act to supplement other laws.

15. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both the Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Education is listed as a subject in the Concurrent List of the Constitution of India, meaning that schools, including private schools, are governed by both Central and State laws. The last decade has witnessed growth in both the number of private schools in India and the proportion of children enrolled in them. The proportion of private schools rose from 19.49 per cent in 2007-08 to 22.74 *per cent* in 2014-15. Around the same period, the share of enrolment of children between the ages of six to fourteen years in private schools rose from 19.3 per cent to 30.8 per cent.

Parents spend a significant portion of their income to educate their children, a burden that is often greatest for the poorest families. There is ample evidence that these costs are a barrier that prevents some parents from enrolling or keeping their children in school. For some families, the desire to send their children to school results in parents making sacrifices in other areas of their lives.

The Supreme Court as well as the High Courts of various Indian States have censured ‘commercialisation of education’ and banned the charging of capitation fee. In *TMA Pai Foundation vs State of Karnataka* (2002), the Supreme Court ruled that the fee charged by private unaided institutions can be limited by the State to prevent profiteering, while allowing for ‘reasonable surplus’. In 2003 in *Islamic Academy of Education vs State of Karnataka* (2003), the Supreme Court observed that the Educational Institutions can form their own fee structures, and the funds must be used to provide facilities to students and to further the growth of the educational institutions. In line with the Supreme Court’s judgement, some States did set up Committees to monitor the fee structure of Educational Institutions. But, there is no framework at the national level prescribing the criteria for limits on fee and the definition of terms ‘reasonable surplus’ and ‘profiteering’.

In the words of Babasaheb Ambedkar, education authorities cannot be treated on the basis of *quid pro quo*; rather it is something “ought to be cheapened in all possible ways to the greatest possible extent”. Therefore, Government should stop the commercialisation of education and regulate with a uniform fee structure across private schools in India. Such a regulatory mechanism will reduce rampant exploitation of the public and help improve educational quality.

Hence this Bill.

NEW DELHI;
February 9, 2018.

BOORA NARSAIAH GOUD

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for constitution of National Authority for Regulation of Fee in Private Schools. It also provides for appointment of a Chairperson, an economist and statistician to the National Authority. Clause 6 provides for constitution of State Authority by the State Government concerned. Clause 11 provides that the Central Government shall provide adequate funds to the State Governments for carrying out the purposes of the Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees twenty-five crore would be involved as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees ten crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

SNEHLATA SHRIVASTAVA
Secretary-General